

EXHIBIT 16

**Deposition of Mark Sessa, dated October 11, 2022
(REDACTED)**

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTHONY SESSA and MARK SESSA, No. 2:20-cv-02292
on behalf of themselves and
all others similarly situated,
Plaintiffs,
vs.
ANCESTRY.COM OPERATIONS, INC.,
a Virginia Corporation;
ANCESTRY.COM, INC., a
Delaware Corporation;
ANCESTRY.COM LLC, a Delaware
Limited Liability Company,
and DOES 1 through 50, inclusive,
Defendants.

REMOTE VIDEOTAPED DEPOSITION of MARK SESSA
TUESDAY, OCTOBER 11, 2022
VOLUME 1

Reported by
Daryl Baucum, RPR, CRR, RMR, CSR No. 10356

Job No. 5468893-1, PAGES 1 - 138

<p>1 UNITED STATES DISTRICT COURT 2 DISTRICT OF NEVADA 3 4 ANTHONY SESSA and MARK SESSA, No 2:20-cv-02292 5 on behalf of themselves and 6 all others similarly situated, 7 Plaintiffs, 8 vs 9 ANCESTRY COM OPERATIONS, INC , 10 a Virginia Corporation; 11 ANCESTRY COM, INC , a 12 Delaware Corporation; 13 ANCESTRY COM LLC, a Delaware 14 Limited Liability Company, 15 and DOES 1 through 50, inclusive, 16 Defendants 17 18 19 20 21 22 23 24 25</p> <hr/> <p>17 REMOTE VIDEOTAPED DEPOSITION of MARK 18 SESSA, with all participants appearing remotely 19 via videoconference, beginning at 8:32 a m , 20 and ending at 12:11 p m , on Tuesday, 21 October 11, 2022, before Daryl Baucum, RPR, 22 CRR, RMR, CSR No 10356 23 24 25</p> <p style="text-align: right;">Page 2</p>	<p>1 APPEARANCES OF COUNSEL (CONTINUED): 2 3 FOR THE DEFENDANTS ANCESTRY.COM OPERATIONS, 4 INC.; ANCESTRY.COM, INC.; and ANCESTRY.COM LLC: 5 6 QUINN, EMANUEL, URQUHART & SULLIVAN 7 BY: JOHN W. BAUMANN, ATTORNEY AT LAW 8 (APPEARING VIA VIDEOCONFERENCE) 9 865 South Figueroa Street 10 Suite 1000 11 Los Angeles, California 90017 12 213.443.3000 13 JackBaumann@QuinnEmanuel.com 14 15 - and - 16 17 BY: CRISTINA HENRIQUEZ, ATTORNEY AT LAW 18 (APPEARING VIA VIDEOCONFERENCE) 19 555 Twin Dolphin Drive 20 Suite 500 21 Redwood Shores, California 94065 22 650.801.5000 23 ChristinaHenriquez@QuinnEmanuel.com 24 25</p> <p style="text-align: right;">Page 4</p>
<p>1 APPEARANCES OF COUNSEL: 2 3 FOR THE PLAINTIFFS: 4 5 TURKE, STRAUSS 6 BY: SAMUEL STRAUSS, ATTORNEY AT LAW 7 (APPEARING VIA VIDEOCONFERENCE) 8 613 Williamson Street 9 Suite 201 10 Madison, Wisconsin 53703 11 608.237.1775 12 Sam@TurkeStrauss.com 13 14 - and - 15 16 LAW OFFICE OF BENJAMIN OSBORN 17 BY: BENJAMIN R. OSBORN, ATTORNEY AT LAW 18 (APPEARING VIA VIDEOCONFERENCE) 19 102 Bergen Street 20 Brooklyn, New York 11201 21 347.645.0464 22 Ben@BenOsbornLaw.com 23 24 25</p> <p style="text-align: right;">Page 3</p>	<p>1 APPEARANCES OF COUNSEL (CONTINUED): 2 3 4 ALSO PRESENT: 5 SEAN GRANT, Videographer 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 5</p>

1	I N D E X			1	TUESDAY, OCTOBER 11, 2022	
2				2	8:32 A.M.	
3				3		
4	WITNESS: MARK SESSA			4	THE VIDEOGRAPHER: Good morning.	
5	EXAMINATION	PAGE		5	We are going on the record at 8:32 a.m. on	
6	BY: MR. BAUMANN	10		08:32:42		
7	BY: MR. STRAUSS	130		6	October 11, 2022.	
8				7	Please, note that this deposition is being	
9				8	conducted virtually.	
10				9	Quality of recording depends on the	
11	QUESTIONS WITNESS WAS INSTRUCTED NOT TO ANSWER:			10	quality of camera and Internet connections of	
12	PAGE LINE			08:32:56		
13	27 2			11	participants.	
14				12	What is seen from the witness and heard on	
15				13	screen is what would be recorded.	
16				14	Audio and video recording will continue to	
17	INFORMATION TO BE SUPPLIED:			15	take place unless all parties agree to go off the	
18	(NONE)			08:33:05		
19				16	record.	
20				17	This is media unit number one of the video	
21				18	recorded deposition of Mark Sessa taken by counsel	
22				19	for Defendants in the matter of Anthony Sessa and	
23				20	Mark Sessa, et al., versus Ancestry.com Operations,	
24				08:33:19		
25				21	Inc., et al., filed in the United States District	
				22	Court, District of Nevada, case number	
				23	2:20-CV-02292, and it's being conducted using	
				24	virtual technology.	
				25	My name is Sean Grant from the firm	08:33:34
			Page 6			Page 8
1	DEPOSITION EXHIBITS			1	Veritext. I am the videographer.	
2	MARK SESSA			08:33:37		
3				2	And the court reporter is Daryl Baucum	
4	NUMBER DESCRIPTION PAGE			3	also from Veritext.	
5	Exhibit 1 Class Action Complaint	19		4	I am not related to any party in this	
6	for Violation of Nev Rev			5	action nor am I financially interested in outcome.	
7	Stat Section 597 770			08:33:45		
8	et seq and 598 0903 et seq ;			6	If there are any objections to proceeding,	
9	Intrusion Upon Seclusion;			7	please, state them at the time of your appearance.	
10	Unjust Enrichment			8	Counsel and all present, including	
11	Exhibit 2 Photocopy of newsprint	48		9	remotely, will now state their appearances	
12	article "The Western			10	and affiliations beginning with the noticing	
13	High School Band"			08:33:57		
14	Exhibit 3 "All School Lists &	51		11	attorney.	
15	Yearbooks results for			12	MR. BAUMANN: Good morning.	
16	mark sessa"			13	This is Jack Baumann of Quinn, Emanuel,	
17	Exhibit 4 "All School Lists &	61		14	for the Ancestry defendants. With me is Christina	
18	Yearbooks results for			15	Henriquez also of Quinn, Emanuel.	
19	tony sessa"			08:34:09		
20	Exhibit 5 "All U S , School	70		16	MR. STRAUSS: This is Samuel Strauss on	
21	Yearbooks, 1900-2016			17	behalf of the plaintiffs and I am joined by Ben	
22	results for mark sessa"			18	Osborn, and I will have Ben Osborn introduce	
23	Exhibit 6 Photocopy of page from	81		19	himself.	
24	Tony Sessa's high school			20	THE VIDEOGRAPHER: Will the court	
25	yearbook, "Blue Freedom			08:34:24		
	Singers Fill the Air			21	reporter, please, swear in the witness.	
	Singing the Now Music			22		
	of Today"			23		
	Exhibit 7 LinkedIn Profile Page	100		24	MARK SESSA,	
	of Mark Sessa			25	having been first duly sworn, was	
					examined and testified as follows:	
			Page 7			Page 9

<p>1 EXAMINATION</p> <p>2 BY MR. BAUMANN:</p> <p>3 Q Good morning, Mr. Sessa. My name is Jack</p> <p>4 Baumann. I will be asking you some questions today.</p> <p>5 To start off, could you just state your</p> <p>08:35:11</p> <p>6 name and address for the record.</p> <p>7 A Yes, Mark Angelo Sessa, [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 Q Have you ever been a party to a lawsuit</p> <p>10 before?</p> <p>08:35:28</p> <p>11 A Yes.</p> <p>12 Q And do you know approximately how many</p> <p>13 different lawsuits you have been a party to?</p> <p>14 A I believe four.</p> <p>15 Q And with the sort of furthest back in</p> <p>08:35:40</p> <p>16 time, the earliest, can you tell me what the nature</p> <p>17 of that lawsuit was and what -- sort of what your</p> <p>18 role in it was.</p> <p>19 A Yeah, a divorce.</p> <p>20 Let's see, and then there was the</p> <p>08:35:54</p> <p>21 guardianship of my grandson.</p> <p>22 And then I have a lawsuit against Philips</p> <p>23 for my CPAP.</p> <p>24 And also one against -- I believe it's</p> <p>25 Equifax because I was one of those people that got</p> <p>08:36:10</p> <p>Page 10</p>	<p>1 Q And is that lawsuit ongoing?</p> <p>08:37:33</p> <p>2 A Yes.</p> <p>3 Q And do you know what stage that lawsuit is</p> <p>4 currently at?</p> <p>5 A No.</p> <p>08:37:44</p> <p>6 Q And in the action against Equifax, do you</p> <p>7 understand that that was also a class action</p> <p>8 lawsuit?</p> <p>9 A Yes.</p> <p>10 Q And are you one of the named plaintiffs in</p> <p>08:37:58</p> <p>11 that lawsuit --</p> <p>12 A No.</p> <p>13 Q -- against Equifax?</p> <p>14 Sorry. I didn't catch your response.</p> <p>15 A No.</p> <p>08:38:08</p> <p>16 Q And were you deposed as part of that</p> <p>17 lawsuit against Equifax?</p> <p>18 A No.</p> <p>19 MR. STRAUSS: Jack and Mr. Sessa, if it's</p> <p>20 okay, Mr. Sessa, I'm just going to ask you to wait</p> <p>08:38:21</p> <p>21 for Mr. Baumann to completely finish his question,</p> <p>22 and especially because I think there is a little bit</p> <p>23 of a delay.</p> <p>24 THE WITNESS: Okay.</p> <p>25 MR. STRAUSS: So if you can just wait</p> <p>08:38:32</p> <p>Page 12</p>
<p>1 caught up in that where they -- somebody hacked in</p> <p>08:36:15</p> <p>2 and got all of their information.</p> <p>3 Q So as I understand it before, your divorce</p> <p>4 proceeding, a guardianship proceeding, a claim</p> <p>5 against Phillips, and then a claim against Equifax;</p> <p>08:36:29</p> <p>6 is that right?</p> <p>7 A Yes, that's correct.</p> <p>8 Q So focusing just on the claim against</p> <p>9 Philips, can you tell me were you a plaintiff in</p> <p>10 that action?</p> <p>08:36:41</p> <p>11 A Yes.</p> <p>12 Q And do you know whether that was a class</p> <p>13 action lawsuit?</p> <p>14 A Yes.</p> <p>15 Q Were you one of the named plaintiffs in</p> <p>08:36:53</p> <p>16 that class action lawsuit?</p> <p>17 A No.</p> <p>18 Q And were you deposed in the action against</p> <p>19 Philips?</p> <p>20 A Yeah. I don't believe so, no.</p> <p>08:37:15</p> <p>21 Q Mr. Sessa, you froze up a little bit.</p> <p>22 I asked whether you were deposed in the</p> <p>23 action against Philips and I didn't catch your</p> <p>24 answer.</p> <p>25 A No.</p> <p>08:37:30</p> <p>Page 11</p>	<p>1 until he is done asking the question and then</p> <p>08:38:34</p> <p>2 respond Sorry for butting in but it will be</p> <p>3 helpful if there is nobody speaking over anyone</p> <p>4 MR. BAUMANN: Sam, you anticipated where I</p> <p>5 was going next</p> <p>08:38:46</p> <p>6 MR. STRAUSS: Jack, we're aligned There</p> <p>7 you go Who knew</p> <p>8 BY MR. BAUMANN:</p> <p>9 Q Mr. Sessa, as I understand it -- and you</p> <p>10 can correct me if I am wrong -- but have you ever</p> <p>08:38:53</p> <p>11 been deposed before?</p> <p>12 A No</p> <p>13 Q I want to go over just a few of the ground</p> <p>14 rules which Sam hopefully touched on here</p> <p>15 Depositions are a little funny In</p> <p>08:39:10</p> <p>16 conversations, we tend to anticipate what the other</p> <p>17 person is going to say and respond but in a</p> <p>18 deposition, because we have got the court reporter</p> <p>19 there trying to take everything down, and I just ask</p> <p>20 that you wait for me to complete my question and</p> <p>08:39:21</p> <p>21 then you answer after I have completed my question</p> <p>22 Does that work?</p> <p>23 A Yes</p> <p>24 Q And at some point your counsel may object</p> <p>25 but unless your counsel instructs you not to answer</p> <p>08:39:34</p> <p>Page 13</p>

<p>1 the question, go ahead and answer. 08:39:37</p> <p>2 Do you understand?</p> <p>3 A Yes.</p> <p>4 Q And if I ask a question that is unclear or 5 that you don't understand, I would ask that you let 08:39:49</p> <p>6 me know, and if you don't let me know, I will assume 7 that you understood my question.</p> <p>8 Is that fair?</p> <p>9 A Yes.</p> <p>10 Q And at any point today you can take a 08:40:02</p> <p>11 break. Just ask me and I am happy to go off record 12 so you can take a break.</p> <p>13 I just ask that if I have a question 14 pending, you answer that question and then we take 15 our break. 08:40:16</p> <p>16 Does that work?</p> <p>17 A Yes.</p> <p>18 Q And do you understand, Mr. Sessa, that you 19 are under oath today and that the oath you swore is 20 the same as you would give in a court of law to 08:40:29</p> <p>21 provide truthful testimony?</p> <p>22 A Yes.</p> <p>23 Q Is there any reason today that you can't 24 provide truthful testimony?</p> <p>25 A No. 08:40:42</p> <p style="text-align: right;">Page 14</p>	<p>1 When did those meetings occur? 08:41:53</p> <p>2 A I don't have the dates in front of me.</p> <p>3 Q Could you give an approximation.</p> <p>4 Did they occur this week? last week?</p> <p>5 A The last several weeks. First time was 08:42:08</p> <p>6 probably in December of '20, I think.</p> <p>7 Q And during the meetings with your 8 attorneys, did you review any documents?</p> <p>9 A Yes.</p> <p>10 Q Do you recall what those documents were? 08:42:31</p> <p>11 A It was the depositions.</p> <p>12 Q By "depositions," what are you referring 13 to there?</p> <p>14 A The entire lawsuit.</p> <p>15 Q And do you recall the names of any of the 08:42:58</p> <p>16 documents you reviewed during your preparation for 17 today's deposition?</p> <p>18 A No, I don't remember.</p> <p>19 Q And when you met with your attorneys 20 Mr. Strauss and Mr. Osborn, aside from other 08:43:24</p> <p>21 attorneys who work with them, was there anyone else 22 at those meetings?</p> <p>23 A No.</p> <p>24 Q At your deposition today --</p> <p>25 A I'm sorry, you are cutting out. Could you 08:43:42</p> <p style="text-align: right;">Page 16</p>
<p>1 Q You are not on any medications or any 08:40:44</p> <p>2 other -- you know, there aren't any other reasons 3 that you might not be able to give full and complete 4 testimony today?</p> <p>5 A No. 08:40:54</p> <p>6 Q What did you do to prepare for the 7 deposition today?</p> <p>8 A I'm sorry, could you repeat that.</p> <p>9 Q Sure.</p> <p>10 Did you meet with your attorneys to 08:41:05</p> <p>11 prepare for today's deposition?</p> <p>12 A Yes.</p> <p>13 Q And which attorneys did you meet with?</p> <p>14 A Sam and Ben.</p> <p>15 Q And approximately how many times did you 08:41:18</p> <p>16 meet with them?</p> <p>17 A All together, probably fifteen times, 18 maybe.</p> <p>19 Q And could you estimate how long each of 20 those meetings was for? 08:41:31</p> <p>21 A Forty-five minutes to an hour.</p> <p>22 Q And when did those meetings occur?</p> <p>23 A I'm sorry, could you repeat that. I 24 didn't get that question.</p> <p>25 Q No problem. 08:41:52</p> <p style="text-align: right;">Page 15</p>	<p>1 repeat that. 08:43:44</p> <p>2 Q My camera seems to be -- thank you for 3 letting me know. I keep cutting out.</p> <p>4 We can take a break and I can get an IT 5 guy but did you talk with anyone about your 08:43:57</p> <p>6 deposition today?</p> <p>7 A My attorneys.</p> <p>8 Q Aside from your attorneys, have you spoken 9 with anyone else about today's deposition?</p> <p>10 A About the suit? 08:44:09</p> <p>11 Q Sure.</p> <p>12 Or the deposition specifically or the 13 lawsuit.</p> <p>14 A No.</p> <p>15 Q And have you talked with anybody about 08:44:20</p> <p>16 this case other than your attorneys?</p> <p>17 A Yes.</p> <p>18 Q And who have you spoken with about this 19 case?</p> <p>20 A That would be my brother, Anthony. 08:44:27</p> <p>21 Q Aside from your brother, Anthony, have you 22 spoken with anybody else about this case?</p> <p>23 A No.</p> <p>24 Q What did you and your brother, Anthony, 25 discuss when you spoke about this case? 08:44:48</p> <p style="text-align: right;">Page 17</p>

<p>1 A He contacted me and asked me if I knew 08:44:50</p> <p>2 that my picture was on Ancestry.com and then I 3 replied that I didn't and he gave me information on 4 how -- and I contacted attorneys.</p> <p>5 Q You said he gave you information. 08:45:15</p> <p>6 What information did he give you?</p> <p>7 A He gave me information -- he gave me the 8 information of the attorneys.</p> <p>9 Q Aside from that initial conversation, did 10 you and your brother speak about the case at all? 08:45:27</p> <p>11 A No.</p> <p>12 Q Mr. Sessa, just briefly, can you tell me 13 your educational background.</p> <p>14 A Graduated from high school.</p> <p>15 Q And what do you do for a living? 08:45:45</p> <p>16 A I am currently retired.</p> <p>17 Can we back up for a second.</p> <p>18 Q Sure.</p> <p>19 A I did talk to my wife, Vicki, because she 20 also went to the same high school. So I asked her 08:46:01</p> <p>21 if she was interested and she declined.</p> <p>22 Q Did your wife say why she declined?</p> <p>23 A She is not comfortable in front of people 24 she doesn't know. She rarely goes out of the house.</p> <p>25 So yeah, that's why. 08:46:21 Page 18</p>	<p>1 document in the marked exhibit folder of Exhibit 08:48:20</p> <p>2 Share If you click the marked exhibit link, it 3 should refresh</p> <p>4 A Marked exhibits?</p> <p>5 Q Correct 08:48:32</p> <p>6 A Okay</p> <p>7 Q Are you able to see that document?</p> <p>8 A No</p> <p>9 Q Should I --</p> <p>10 A Wait There is activity in this folder 08:48:45</p> <p>11 Should I click that, the folder?</p> <p>12 Q You should see a PDF that says Exhibit 1 13 pop up</p> <p>14 A No</p> <p>15 MR STRAUSS: Do you want to go off the 08:49:11</p> <p>16 record for a minute?</p> <p>17 MR BAUMANN: Yeah</p> <p>18 THE VIDEOGRAPHER: Going off the record</p> <p>19 The time of is 8:49 a m</p> <p>20 (Off the record) 08:49:18</p> <p>21 THE VIDEOGRAPHER: Back on the record</p> <p>22 The time is 8:52 a m</p> <p>23 BY MR BAUMANN:</p> <p>24 Q Mr Sessa, we are having a little bit of 25 trouble with the Exhibit Share but I'm going to go 08:52:47 Page 20</p>
<p>1 Q But jumping back, you said you are 08:46:27</p> <p>2 currently retired.</p> <p>3 How long have you been retired for?</p> <p>4 A I retired in January of this year.</p> <p>5 Q And what did you do prior to retiring? 08:46:37</p> <p>6 A I worked at Trader Joe's.</p> <p>7 Q And how long did you hold that job?</p> <p>8 A About fifteen years.</p> <p>9 Q (inaudible) currently live in Nevada.</p> <p>10 Have you ever lived outside of Nevada? 08:46:59</p> <p>11 A No.</p> <p>12 Q Mr. Sessa, can you tell me your 13 understanding of your claims in this action.</p> <p>14 A Yeah.</p> <p>15 It's about using my -- Ancestry.com using 08:47:18</p> <p>16 my picture or pictures without my approval so that 17 they can gain more business.</p> <p>18 MR. BAUMANN: I will pull up a document 19 here, and bear with me as I navigate through this 20 Exhibit Share. 08:47:44</p> <p>21 (Deposition Exhibit 1 was marked 22 for identification by the court 23 reporter and is attached hereto.)</p> <p>24 BY MR. BAUMANN:</p> <p>25 Q All right, Mr. Sessa, you should now see a 08:48:16 Page 19</p>	<p>1 ahead and share my screen with you, which I 08:52:50</p> <p>2 understand your counsel is fine with.</p> <p>3 And I am going to share what has been 4 marked as Exhibit 1, and this is a document entitled 5 class action complaint for violation of Nevada 08:53:05</p> <p>6 revised statute 597.770.</p> <p>7 And it's for the case Sessa versus 8 Ancestry.com in the District Court for the District 9 of Nevada.</p> <p>10 Do you see that? 08:53:23</p> <p>11 A Yeah, barely.</p> <p>12 Q And I can help.</p> <p>13 Are you able to see that better now?</p> <p>14 A Yes.</p> <p>15 Q Do you recognize this document, Mr. Sessa? 08:53:40</p> <p>16 A Yes.</p> <p>17 Q And do you understand this to be your 18 complaint in this case?</p> <p>19 A Yes.</p> <p>20 Q And we can scroll through this document as 08:53:52</p> <p>21 much as you need. Just let me know if you would 22 like me to scroll through it.</p> <p>23 My next question is going to be did you 24 review this complaint before it was filed.</p> <p>25 A Yes. 08:54:14 Page 21</p>

<p>1 Q And did you confirm the factual 08:54:16</p> <p>2 allegations in this complaint were truthful?</p> <p>3 A Yes.</p> <p>4 Q And did you understand that this complaint 5 would be filed on your behalf by your attorneys? 08:54:28</p> <p>6 A Yes.</p> <p>7 Q We touched on this a little bit earlier 8 and I can take this document down for a second, but 9 when did you first learn that your yearbook records 10 exist on Ancestry's website? 08:54:46</p> <p>11 A When I did first learn?</p> <p>12 Q Yes.</p> <p>13 A When my brother told me.</p> <p>14 Q Do you remember when that was?</p> <p>15 A I believe it was December 2020. 08:55:01</p> <p>16 Q And how did your brother come to learn 17 that your book was on Ancestry's website, if you 18 know?</p> <p>19 MR. STRAUSS: I'm sorry, Mr. Baumann, are 20 you finished with the question? 08:55:21</p> <p>21 MR. BAUMANN: Yes.</p> <p>22 MR. STRAUSS: Object to the form of the 23 question.</p> <p>24 Mr. Sessa, you may answer.</p> <p>25</p> <p style="text-align: right;">Page 22</p>	<p>1 represent you in this case? 08:56:30</p> <p>2 A Yes.</p> <p>3 Q I'm afraid you might not have heard my 4 question.</p> <p>5 Sam, are you able to hear me all right? 08:56:40</p> <p>6 MR. STRAUSS: Jack, I am having this weird 7 phenomena with your questions. I am not hearing 8 like the first two words, so . . .</p> <p>9 THE WITNESS: Me -- yeah, that is 10 happening to me, too. 08:56:51</p> <p>11 MR. STRAUSS: So I mean, Jack, this is 12 very elementary. If it persists maybe you want to 13 start by saying "my question is" and we will hear 14 your actual question. Sorry for telling you how to 15 take your crazy deposition. 08:57:08</p> <p>16 MR. BAUMANN: This microphone is skittish. 17 BY MR. BAUMANN:</p> <p>18 Q So I will repeat my question, Mr. Sessa, 19 and if this continues, we can pause again and deal 20 with more tech issues, but my question was when did 08:57:18</p> <p>21 you retain your attorneys to represent you in this 22 case.</p> <p>23 A When did -- when? When I contacted -- 24 first time I contacted them that would be in 25 December of 2020. 08:57:33</p> <p style="text-align: right;">Page 24</p>
<p>1 MR. BAUMANN: Let me rephrase the 08:55:26</p> <p>2 question.</p> <p>3 BY MR. BAUMANN:</p> <p>4 Q Did your brother tell you how he 5 discovered your yearbook record was on Ancestry's 08:55:31</p> <p>6 website?</p> <p>7 A No.</p> <p>8 Q Have you come to learn subsequently how 9 your brother discovered your record was on 10 Ancestry's website? 08:55:46</p> <p>11 A No.</p> <p>12 Q As you sit here today you don't know how 13 your brother found out your record was on Ancestry's 14 website?</p> <p>15 A No. 08:56:01</p> <p>16 Q (Inaudible) counsel to represent you in 17 this case?</p> <p>18 A I'm sorry, could you repeat that.</p> <p>19 Q (Inaudible) engage your attorneys to 20 represent you in this case? 08:56:16</p> <p>21 A I still -- you're breaking up. I can see 22 you. I just can't hear you.</p> <p>23 Q Let me -- can you hear me now?</p> <p>24 A Yes.</p> <p>25 Q (Inaudible) hired your attorneys to 08:56:25</p> <p style="text-align: right;">Page 23</p>	<p>1 Q And when was that relative to when your 08:57:36</p> <p>2 brother informed you that he had found your yearbook 3 records on Ancestry's website?</p> <p>4 MR. STRAUSS: Object to the form of the 5 question. 08:57:47</p> <p>6 You may answer it, Mr. Sessa.</p> <p>7 THE WITNESS: A day or two later I got in 8 touch as soon as -- as soon as I could.</p> <p>9 BY MR. BAUMANN:</p> <p>10 Q And when you hired your counsel, did you 08:58:01</p> <p>11 authorize them to investigate your claims as to 12 whether your yearbook records were on Ancestry's 13 website?</p> <p>14 A Yes.</p> <p>15 MR. STRAUSS: Object to the form of the 08:58:16</p> <p>16 question.</p> <p>17 You may answer it, Mr. Sessa.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. BAUMANN:</p> <p>20 Q And did you authorize them to file claims 08:58:20</p> <p>21 based on your yearbook record's existence on 22 Ancestry's website?</p> <p>23 MR. STRAUSS: Same objection.</p> <p>24 You may answer the question.</p> <p>25 THE WITNESS: Yes. 08:58:30</p> <p style="text-align: right;">Page 25</p>

<p>1 BY MR. BAUMANN: 08:58:31</p> <p>2 Q And when you authorized your counsel to do 3 that, did you place any sort of restrictions on what 4 your counsel could or couldn't do in investigating 5 your claims? 08:58:44</p> <p>6 MR. STRAUSS: Mr. Sessa, I want to object 7 just to the extent this is calling for any 8 attorney-client privileged communication 9 So I am advising you that you may answer 10 Mr. Baumann's question but you are not to disclose 08:58:58</p> <p>11 the content of any communications you had with any 12 attorneys in this matter 13 Sorry. If it would be helpful, I am sure 14 Mr. Baumann or the court reporter would repeat the 15 question 08:59:15</p> <p>16 THE WITNESS: So -- 17 BY MR. BAUMANN: 18 Q I can repeat my question with a little 19 more clarification, which is throughout your 20 deposition today -- and, of course, your counsel 08:59:23</p> <p>21 might -- can jump in and object, but I will not be 22 seeking any -- I'm not trying to elicit from you any 23 attorney-client communication. So that is 24 communications you had with your attorneys in 25 seeking legal advice from them or in receiving legal 08:59:42</p> <p style="text-align: right;">Page 26</p>	<p>1 the content of the communication that Mr. Sessa had 09:01:11</p> <p>2 with his counsel regarding the prosecution of this 3 case would be privileged communication or is 4 privileged. 5 So I believe that based on that then the 09:01:21</p> <p>6 entire question asking what sort of parameters or 7 how he communicated with his counsel regarding the 8 prosecution of this case would, in fact, be 9 privileged. 10 So I think yes to your first question. I 09:01:34</p> <p>11 think it subsumes the entire question you asked. 12 MR. BAUMANN: Understood. 13 BY MR. BAUMANN: 14 Q Mr. Sessa, what (inaudible) did you find 15 out your yearbook records were on Ancestry's 09:01:45</p> <p>16 website? 17 A I'm sorry. You're breaking up again. 18 Could you repeat that. 19 MR. BAUMANN: Go off the record for like 20 five minutes. I'm going to call my tech guy and see 09:01:58</p> <p>21 if he can fix this microphone issue. 22 MR. STRAUSS: Sure thing. 23 THE WITNESS: I only got about half of 24 what you just said. I heard "five minutes" and it 25 was -- 09:02:10</p> <p style="text-align: right;">Page 28</p>
<p>1 advice from them 08:59:45</p> <p>2 But my question here is when you 3 authorized your attorneys to investigate your claims 4 and file the complaint, did you place any sort of 5 restrictions on what your counsel could or could not 08:59:58</p> <p>6 do in investigating your claim 7 MR. STRAUSS: So I am going to object to 8 that question based on attorney-client privilege 9 So I'm going to advise you not to answer 10 that question 09:00:16</p> <p>11 MR. BAUMANN: So I understand, your 12 instruction here, Sam, is to the question in 13 general? 14 I mean to the extent Mr. Sessa delivered 15 instructions to his attorneys that wasn't in the 09:00:35</p> <p>16 context of seeking legal advice but instead was 17 delivering an objection to the attorneys on what to 18 do or what not to do not for the purpose of getting 19 legal advice from you, his attorneys, it's our view 20 would that not be privileged information 09:00:52</p> <p>21 So does your instruction cover the 22 question as a whole or is it limited to eliciting 23 legal advice? 24 MR. STRAUSS: Well, so Mr. Baumann, my 25 position is that any of the communication or any of 09:01:07</p> <p style="text-align: right;">Page 27</p>	<p>1 MR. STRAUSS: So Mr. Sessa, what 09:02:11</p> <p>2 Mr. Baumann said is he is going to work with his 3 tech professional. 4 THE WITNESS: Yes. 5 THE VIDEOGRAPHER: The time is 9:02 a.m. 09:02:18</p> <p>6 (Off the record.) 7 THE VIDEOGRAPHER: Back on the record. 8 The time is 9:10 a.m. 9 BY MR. BAUMANN: 10 Q Mr. Sessa, I think we have resolved the 09:10:40</p> <p>11 tech issues off the record but if you have any more 12 difficulty hearing me, please, do let me know. 13 Before we went off the record, Mr. Sessa, 14 I was asking you about when you first found out your 15 yearbook record was on Ancestry's website. 09:10:57</p> <p>16 What was your reaction when you found that 17 out? 18 A When I found out it was on there, I was 19 displeased, to say the least. 20 Q And why was that? 09:11:10</p> <p>21 A Well, I didn't want somebody -- I didn't 22 want Ancestry.com to be making money off of my 23 picture without my permission. 24 Q And aside from retaining counsel to pursue 25 this action, were there any other steps that you 09:11:26</p> <p style="text-align: right;">Page 29</p>

<p>1 took as a result of your yearbook appearing on 09:11:30</p> <p>2 Ancestry's website?</p> <p>3 A No.</p> <p>4 MR. STRAUSS: Mr. Sessa, I just want to 5 remind you, again, to, please, wait for Jack to 09:11:38</p> <p>6 completely finish his question before you answer it.</p> <p>7 THE WITNESS: Yes, sorry.</p> <p>8 MR. STRAUSS: No problem.</p> <p>9 BY MR. BAUMANN:</p> <p>10 Q And did you incur any out-of-pocket 09:11:47</p> <p>11 expenses as a result of finding out your yearbook 12 was on Ancestry's website?</p> <p>13 A No.</p> <p>14 Q You didn't pay anyone to try to have the 15 yearbook records taken down? 09:12:06</p> <p>16 A No.</p> <p>17 Q And you didn't incur any medical expenses 18 or anything like that?</p> <p>19 A No.</p> <p>20 Q Mr. Sessa, what is it that you hope to get 09:12:19</p> <p>21 out of this lawsuit?</p> <p>22 A They will take my picture down and not use 23 my picture for their profit.</p> <p>24 Q Have you ever looked into whether you can 25 request that Ancestry remove a record from its 09:12:42 Page 30</p>	<p>1 A Western High School, Las Vegas, Nevada. 09:13:34</p> <p>2 Q And when do you attend Western High 3 School?</p> <p>4 A I graduated in 1972.</p> <p>5 Q And did you attend Western High School -- 09:13:45</p> <p>6 that was the only high school that you attended?</p> <p>7 A That is correct.</p> <p>8 Q And I take it you went there for four 9 years?</p> <p>10 A Three. 09:13:56</p> <p>11 Q And what grades did Western High School 12 cover at that time?</p> <p>13 A Grade number ten, eleven and twelve.</p> <p>14 Q And did you get a yearbook each year that 15 you were in high school? 09:14:11</p> <p>16 A I did.</p> <p>17 Q And do you remember who was responsible 18 for compiling those yearbooks for the classes at 19 Western High School?</p> <p>20 A They had a yearbook committee. 09:14:27</p> <p>21 Q And do you recall the names of anyone who 22 was on that yearbook committee?</p> <p>23 A No.</p> <p>24 Q Did students have to pay to receive copies 25 of the yearbooks at Western High School? 09:14:44 Page 32</p>
<p>1 website? 09:12:45</p> <p>2 A No.</p> <p>3 Q So I take it then before you filed this 4 lawsuit, you never asked Ancestry to remove your 5 yearbook record from Ancestry's website? 09:12:53</p> <p>6 A No.</p> <p>7 Q And you haven't done that subsequent to 8 filing this lawsuit, requested Ancestry remove your 9 yearbook record, have you?</p> <p>10 MR. STRAUSS: Object to the form of the 09:13:07</p> <p>11 question.</p> <p>12 You may answer it, Mr. Sessa.</p> <p>13 MR. BAUMANN: I will rephrase it because 14 it was clumsy.</p> <p>15 BY MR. BAUMANN: 09:13:14</p> <p>16 Q After you filed this lawsuit, did you ever 17 ask Ancestry to remove your yearbook from Ancestry's 18 website?</p> <p>19 MR. STRAUSS: Same objection.</p> <p>20 You may answer it. 09:13:22</p> <p>21 THE WITNESS: No.</p> <p>22 BY MR. BAUMANN:</p> <p>23 Q Mr. Sessa, I want to take a step back in 24 time, a trip down memory lane.</p> <p>25 Where did you go to high school? 09:13:32 Page 31</p>	<p>1 A Yes. 09:14:46</p> <p>2 Q Do you know why that was?</p> <p>3 A To cover the cost.</p> <p>4 MR. STRAUSS: Object to the form of the 5 question. 09:14:55</p> <p>6 You may answer it, Mr. Sessa.</p> <p>7 THE WITNESS: Sorry.</p> <p>8 To cover the cost of putting the yearbook 9 together.</p> <p>10 BY MR. BAUMANN: 09:15:01</p> <p>11 Q And yearbooks sometimes offer ad space to 12 local businesses, right?</p> <p>13 A Yes.</p> <p>14 Q Did your high school yearbook have those 15 types of local businesses' ads in them? 09:15:19</p> <p>16 A I don't remember.</p> <p>17 Q And did you ever purchase a yearbook when 18 you were in high school?</p> <p>19 A Yes.</p> <p>20 Q And why did you purchase your yearbook? 09:15:32</p> <p>21 A To reminisce, to show my grandson what I 22 looked like when I was in high school.</p> <p>23 Q Any other reasons?</p> <p>24 A No, just to reminisce and look back in 25 time. 09:15:58 Page 33</p>

<p>1 Q And did you purchase a yearbook in each of 09:16:00</p> <p>2 the three years that you attended Western High 3 School?</p> <p>4 A Yes.</p> <p>5 Q And did you ever object that your high 09:16:12</p> <p>6 school was selling copies of the yearbooks in which 7 you appeared?</p> <p>8 A No.</p> <p>9 Q Do you have an understanding of the reason 10 that high schools give out yearbooks at the end of 09:16:24</p> <p>11 each school year?</p> <p>12 MR. STRAUSS: Object to the form of the 13 question.</p> <p>14 You may answer it.</p> <p>15 THE WITNESS: Yes. 09:16:35</p> <p>16 BY MR. BAUMANN:</p> <p>17 Q What is your understanding?</p> <p>18 MR. STRAUSS: Same objection.</p> <p>19 You may answer it.</p> <p>20 THE WITNESS: So people can look back and 09:16:44</p> <p>21 see their friends and see what they looked like back 22 then.</p> <p>23 BY MR. BAUMANN:</p> <p>24 Q And what types of information did your 25 yearbooks include about you? 09:16:55</p> <p style="text-align: right;">Page 34</p>	<p>1 about you in those books, right? 09:18:13</p> <p>2 MR. STRAUSS: Same objection.</p> <p>3 You may answer it.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. BAUMANN: 09:18:17</p> <p>6 Q And what did you do with your yearbooks 7 when you received them?</p> <p>8 A I looked at them. I had people sign them 9 and then I put them away.</p> <p>10 Q And other students at your high school 09:18:37</p> <p>11 received copies of the yearbook in each year from 12 Western High School, right?</p> <p>13 A If they purchased one, yes.</p> <p>14 Q And to your knowledge, did some of your 15 friends or classmates purchase their yearbooks, as 09:18:54</p> <p>16 well?</p> <p>17 A Yes.</p> <p>18 Q Do you recall whether most people ended up 19 purchasing their yearbooks?</p> <p>20 A I wouldn't have any idea. 09:19:09</p> <p>21 Q Do you know what your classmates did with 22 their yearbooks after they received them?</p> <p>23 MR. STRAUSS: Object to the form of the 24 question.</p> <p>25 You may answer it. 09:19:18</p> <p style="text-align: right;">Page 36</p>
<p>1 A I believe just my name 09:16:59</p> <p>2 Q Did the yearbooks have any pictures of 3 you?</p> <p>4 A Yes</p> <p>5 Q And what sorts of pictures of you were 09:17:11</p> <p>6 contained in your yearbooks?</p> <p>7 A It would be my picture and then pictures 8 of me in any organizations or things that I was part 9 of, band, stage band, things like that</p> <p>10 Q Any other types of pictures of you in 09:17:35</p> <p>11 those yearbooks?</p> <p>12 A Not that I remember</p> <p>13 Q And you understood that others who 14 received the yearbooks would see the pictures of you 15 and your name in those yearbooks, right? 09:17:52</p> <p>16 MR. STRAUSS: Object to the form of the 17 question</p> <p>18 You may answer it</p> <p>19 THE WITNESS: Could you repeat that I 20 didn't get the first couple of words 09:18:00</p> <p>21 BY MR. BAUMANN:</p> <p>22 Q Sure</p> <p>23 Other folks that received copies of the 24 yearbooks in which you appeared, you understood that 25 they would see the information that was published 09:18:10</p> <p style="text-align: right;">Page 35</p>	<p>1 THE WITNESS: No. 09:19:19</p> <p>2 BY MR. BAUMANN:</p> <p>3 Q Did you try to put any sort of restriction 4 on what your classmates could do with their 5 yearbooks? 09:19:28</p> <p>6 A Did I?</p> <p>7 MR. STRAUSS: Object to the form of the 8 question.</p> <p>9 You may answer it.</p> <p>10 THE WITNESS: No. 09:19:33</p> <p>11 BY MR. BAUMANN:</p> <p>12 Q In their copies of the yearbook, they 13 would have included pictures of you, right?</p> <p>14 A Yes.</p> <p>15 Q Do you know whether your classmates who 09:19:52</p> <p>16 received copies of the yearbooks you appeared in 17 shared them with others?</p> <p>18 MR. STRAUSS: Object to the form of the 19 question.</p> <p>20 You may answer it. 09:20:00</p> <p>21 THE WITNESS: No.</p> <p>22 BY MR. BAUMANN:</p> <p>23 Q But you said you had some of your friends 24 sign your yearbook, right?</p> <p>25 A Yes. 09:20:10</p> <p style="text-align: right;">Page 37</p>

<p>1 Q Did you sign any of your friends'</p> <p>09:20:12</p> <p>2 yearbooks?</p> <p>3 Sorry, Mr. Sessa, you froze for a moment,</p> <p>4 so you might not have caught my question.</p> <p>5 You said you had friends sign copies of</p> <p>09:20:41</p> <p>6 your yearbooks, right?</p> <p>7 A Yes.</p> <p>8 Q And did you sign copies of any of your</p> <p>9 friends' yearbooks?</p> <p>10 A Yes.</p> <p>09:20:50</p> <p>11 Q And did they have other people who had</p> <p>12 signed their yearbooks, as well, in addition to you?</p> <p>13 A I wouldn't know.</p> <p>14 Q Well, do you recall when you signed their</p> <p>15 yearbooks whether you were the only one that signed</p> <p>09:21:05</p> <p>16 it?</p> <p>17 A Some of them, I was the first person to</p> <p>18 sign so that I don't know if they had any after me</p> <p>19 but it would usually -- they would usually turn to a</p> <p>20 page and I would sign it. So I didn't really look</p> <p>09:21:28</p> <p>21 through their books.</p> <p>22 Q And did you have an understanding of</p> <p>23 whether those folks shared their yearbooks when they</p> <p>24 received them with other students besides you?</p> <p>25 A Yes. 09:21:42</p> <p style="text-align: right;">Page 38</p>	<p>1 members, like your parents, got copies of yearbooks</p> <p>09:23:00</p> <p>2 from their high schools?</p> <p>3 A I don't know</p> <p>4 Q Your classmates from high school who</p> <p>5 received copies of your Western High School</p> <p>09:23:23</p> <p>6 yearbook, they might have given their copies away,</p> <p>7 right?</p> <p>8 MR STRAUSS: Object to the form of the</p> <p>9 question</p> <p>10 You may answer it</p> <p>09:23:32</p> <p>11 THE WITNESS: I wouldn't know</p> <p>12 BY MR BAUMANN:</p> <p>13 Q You have never checked whether they did or</p> <p>14 didn't?</p> <p>15 A Correct</p> <p>09:23:39</p> <p>16 Q Do you know whether any of your classmates</p> <p>17 might have donated their yearbooks to a government</p> <p>18 archive, for example?</p> <p>19 A I wouldn't know</p> <p>20 MR STRAUSS: Object to the form of the</p> <p>09:23:54</p> <p>21 question</p> <p>22 You may answer it</p> <p>23 THE WITNESS: Yeah, I wouldn't know</p> <p>24 BY MR BAUMANN:</p> <p>25 Q And you have never checked whether they 09:23:58</p> <p style="text-align: right;">Page 40</p>
<p>1 Q Do you know whether your high school</p> <p>09:21:47</p> <p>2 classmates still have their yearbooks?</p> <p>3 A I wouldn't know.</p> <p>4 Q If folks from your high school still had</p> <p>5 copies of their yearbooks, they would be able to</p> <p>09:22:03</p> <p>6 share them with other people, right?</p> <p>7 MR. STRAUSS: Object to the form of the</p> <p>8 question.</p> <p>9 You may answer it.</p> <p>10 THE WITNESS: I wouldn't know.</p> <p>09:22:12</p> <p>11 BY MR. BAUMANN:</p> <p>12 Q Are you aware of anything that would be</p> <p>13 stopping anybody who has a copy of their high school</p> <p>14 yearbook in their house from showing it to their</p> <p>15 grandchild?</p> <p>09:22:27</p> <p>16 A No.</p> <p>17 Q So if these high school classmates of</p> <p>18 yours have copies of the yearbook, they could share</p> <p>19 them with other people, right?</p> <p>20 A Yes.</p> <p>09:22:39</p> <p>21 Q And is that something that you understand</p> <p>22 people will do, is show their old yearbooks to their</p> <p>23 friends or family?</p> <p>24 A Yes.</p> <p>25 Q Do you recall whether any of your family 09:22:59</p> <p style="text-align: right;">Page 39</p>	<p>1 did or didn't?</p> <p>09:24:00</p> <p>2 A Correct.</p> <p>3 Q Do you know whether any of your yearbook</p> <p>4 records appear in any government archives?</p> <p>5 A No.</p> <p>09:24:16</p> <p>6 Q Do you know whether any of your classmates</p> <p>7 who received copies of your Western High School</p> <p>8 yearbooks ever donated them to libraries?</p> <p>9 MR. STRAUSS: Object to the form of the</p> <p>10 question.</p> <p>09:24:29</p> <p>11 You may answer it.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. BAUMANN:</p> <p>14 Q Have you ever checked to see whether they</p> <p>15 did that?</p> <p>09:24:36</p> <p>16 A No.</p> <p>17 Q Do you know whether the whole library</p> <p>18 where Western High School is has copies of your high</p> <p>19 school's yearbooks?</p> <p>20 A No.</p> <p>09:24:54</p> <p>21 Q You have never checked to see whether they</p> <p>22 did?</p> <p>23 A No.</p> <p>24 Q Do you have an understanding as to whether</p> <p>25 libraries sometimes make available copies of 09:25:06</p> <p style="text-align: right;">Page 41</p>

<p>1 yearbooks? 09:25:10</p> <p>2 A I wasn't aware</p> <p>3 Q Do you know whether your school keeps</p> <p>4 copies of your yearbooks?</p> <p>5 A No 09:25:21</p> <p>6 Q So I take it then you wouldn't know</p> <p>7 whether your yearbooks are available at your old</p> <p>8 high school's library?</p> <p>9 A Yeah, I would not know</p> <p>10 Q Do you know how your high school otherwise 09:25:35</p> <p>11 uses the yearbooks?</p> <p>12 A No</p> <p>13 MR STRAUSS: Sorry I was just going to</p> <p>14 ask you to repeat the question but it's fine We</p> <p>15 can move on 09:25:51</p> <p>16 BY MR BAUMANN:</p> <p>17 Q And Mr Sessa, where are your copies of</p> <p>18 your old high school yearbooks?</p> <p>19 A Upstairs in my bedroom</p> <p>20 Q Have you ever tried to sell or license 09:26:04</p> <p>21 your old yearbooks?</p> <p>22 A No</p> <p>23 Q Why not?</p> <p>24 A They're mine</p> <p>25 Q Do you know one way or another whether 09:26:20</p> <p style="text-align: right;">Page 42</p>	<p>1 them to? 09:27:17</p> <p>2 A No.</p> <p>3 Q So I take it then you don't know what</p> <p>4 price you would get for your yearbooks if you wanted</p> <p>5 to sell them? 09:27:31</p> <p>6 MR. STRAUSS: Object to the form of the</p> <p>7 question.</p> <p>8 You may answer it.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. BAUMANN: 09:27:35</p> <p>11 Q And I take it the same is true of the</p> <p>12 specific pages of the yearbooks in which you</p> <p>13 appeared.</p> <p>14 You have never tried to sell or license</p> <p>15 those; is that right? 09:27:53</p> <p>16 A No.</p> <p>17 Q And just so the record is -- record is</p> <p>18 clear because I asked the question a little funnily,</p> <p>19 but have you ever tried to sell or license the</p> <p>20 individual pages of the yearbooks in which you 09:28:05</p> <p>21 appeared?</p> <p>22 A No.</p> <p>23 Q And do you have any plans to try to sell</p> <p>24 or license those yearbook pages? 09:28:17</p> <p>25 A No. Page 44</p>
<p>1 anybody might have bought your yearbook from you if 09:26:22</p> <p>2 you sought to sell or license it?</p> <p>3 MR STRAUSS: Object to the form of the</p> <p>4 question</p> <p>5 THE WITNESS: Do I know if anybody bought 09:26:29</p> <p>6 my yearbook? Is that the question?</p> <p>7 BY MR BAUMANN:</p> <p>8 Q My question is a little different</p> <p>9 It's do you know whether anybody would</p> <p>10 have purchased your yearbook from you if you had 09:26:37</p> <p>11 tried to sell or license it</p> <p>12 A No</p> <p>13 MR STRAUSS: Object to the form of the</p> <p>14 question</p> <p>15 You may answer it 09:26:46</p> <p>16 THE WITNESS: No</p> <p>17 BY MR BAUMANN:</p> <p>18 Q And do you have any plans to sell any of</p> <p>19 your yearbooks?</p> <p>20 A No 09:26:59</p> <p>21 Q Do you have any plans to license your</p> <p>22 yearbooks?</p> <p>23 A No</p> <p>24 Q If you wanted to sell or license your</p> <p>25 yearbook, do you know who you would go about selling 09:27:15</p> <p style="text-align: right;">Page 43</p>	<p>1 Q So do you know one way or the other 09:28:23</p> <p>2 whether anyone has ever been willing to pay you for</p> <p>3 those pages of your yearbook record in which you</p> <p>4 appear?</p> <p>5 A No. 09:28:34</p> <p>6 MR. STRAUSS: Object to the form of the</p> <p>7 question.</p> <p>8 BY MR. BAUMANN:</p> <p>9 Q Let's say, Mr. Sessa, that you wanted to</p> <p>10 scan pages from your old high school yearbook that 09:28:40</p> <p>11 you appear in and create a website and post the</p> <p>12 scanned image to your website.</p> <p>13 Is that something you could do if you</p> <p>14 wanted?</p> <p>15 MR. STRAUSS: Object to the form of the 09:28:53</p> <p>16 question.</p> <p>17 You may answer it, Mr. Sessa.</p> <p>18 THE WITNESS: I wouldn't.</p> <p>19 BY MR. BAUMANN:</p> <p>20 Q And my question was a little bit 09:29:05</p> <p>21 different, not whether you would or wouldn't but</p> <p>22 that is something is you could do if you wanted to,</p> <p>23 correct?</p> <p>24 MR. STRAUSS: Object to the form of the</p> <p>25 question. 09:29:14</p> <p style="text-align: right;">Page 45</p>

<p>1 You may answer it 09:29:14</p> <p>2 THE WITNESS: I guess</p> <p>3 BY MR. BAUMANN:</p> <p>4 Q Is there anything stopping you from doing 5 whatever you want with your pictures of yourself 09:29:25</p> <p>6 from your old high school yearbooks?</p> <p>7 MR. STRAUSS: Object to the form of the 8 question, Mr. Sessa</p> <p>9 And I am also going to remind you, 10 Mr. Sessa, to not respond to Mr. Baumann's question 09:29:39</p> <p>11 until he's finished answering. Sorry for being such 12 a nag in this deposition</p> <p>13 THE WITNESS: No</p> <p>14 BY MR. BAUMANN:</p> <p>15 Q And looking sort of beyond the yearbooks 09:29:49</p> <p>16 that we're talking about, have you ever tried to 17 sell or license your name?</p> <p>18 A No</p> <p>19 Q Has anyone ever paid you to use your name?</p> <p>20 A No 09:30:07</p> <p>21 Q Do you have any plans to try to sell or 22 license your name?</p> <p>23 A No</p> <p>24 Q So based on your answer, I assume you 25 don't know one way or the other whether anyone has 09:30:23 Page 46</p>	<p>1 (Deposition Exhibit 2 was marked 09:31:30</p> <p>2 for identification by the court 3 reporter and is attached hereto.)</p> <p>4 BY MR. BAUMANN:</p> <p>5 Q And, Mr. Sessa, I would ask that you check 09:31:47</p> <p>6 your Marked Exhibits folder to see if you are able 7 to see any exhibits in it now.</p> <p>8 A Let's see. I have downloads, status, item 9 name, search files, and folders, but I don't have 10 anything on the screen I can see. 09:32:12</p> <p>11 MR. BAUMANN: Then Sam, I assume it's all 12 right just to share my screen again.</p> <p>13 You should have this, Sam, in the Marked 14 Exhibit folder.</p> <p>15 Do you see Exhibit 2? 09:32:25</p> <p>16 MR. STRAUSS: Yes, I have Exhibit 2, and 17 for the record, I am giving you permission to show 18 your screen that way.</p> <p>19 BY MR. BAUMANN:</p> <p>20 Q Mr. Sessa, I am going to share my screen 09:32:35</p> <p>21 here, and as before, if you need me to zoom or 22 scroll, please, do let me know and you can tell me 23 when you are able to see my screen.</p> <p>24 Are you able to see my screen?</p> <p>25 A Yes. 09:32:48 Page 48</p>
<p>1 ever been willing to pay you for use of your name. 09:30:25</p> <p>2 MR. STRAUSS: Object to the form of the 3 question.</p> <p>4 You may answer the question, Mr. Sessa.</p> <p>5 THE WITNESS: I wouldn't know. 09:30:32</p> <p>6 BY MR. BAUMANN:</p> <p>7 Q Have you ever tried to sell or license a 8 photograph or other image of yourself?</p> <p>9 A No.</p> <p>10 Q Has anyone ever paid you for a photograph 09:30:46</p> <p>11 or other image depicting you?</p> <p>12 A No.</p> <p>13 Q Do you have any plans to try to sell or 14 license photographs or images of yourself?</p> <p>15 A No. 09:31:07</p> <p>16 Q Do you know one way or the other whether 17 anyone has ever been willing to pay you for a 18 photograph or image of yourself?</p> <p>19 MR. STRAUSS: Object to the form of the 20 question. 09:31:15</p> <p>21 You may answer it, Mr. Sessa.</p> <p>22 THE WITNESS: No.</p> <p>23 MR. BAUMANN: So I want to try the Exhibit 24 Share here again and see if it works. So I'm going 25 to try adding another exhibit. 09:31:28 Page 47</p>	<p>1 Q So this is a document that is marked 09:32:50</p> <p>2 Exhibit 2. It's a document that has been produced 3 here as Ancestry 243.</p> <p>4 And, Mr. Sessa, do you recognize this 5 document? 09:33:00</p> <p>6 A Yeah, it looks like the school band.</p> <p>7 Q And is that your high school band?</p> <p>8 A This picture is pretty small but it could 9 be.</p> <p>10 Q And let me know if you would like me to 09:33:21</p> <p>11 zoom in anywhere on the exhibit.</p> <p>12 A Yeah, the back row where the percussion 13 is.</p> <p>14 Q Sure.</p> <p>15 A Yes, I do believe I am in there. 09:33:36</p> <p>16 Q And where are you in this picture?</p> <p>17 A I am standing next to the gentleman who is 18 holding the cymbals and I am behind one of the 19 tympany.</p> <p>20 Q And if we scroll over here to the right of 09:33:56</p> <p>21 the picture, we see two tuba players.</p> <p>22 Do you see that?</p> <p>23 A Barely, but I can see them.</p> <p>24 Q And I can zoom in as much as you would 25 like. Let me know. 09:34:10 Page 49</p>

<p>1 A I can see them. 09:34:12</p> <p>2 Q And then if we look two people to the 3 right of them, there is a fellow with brown hair 4 sort of looking down. 5 Do you know who that is? 09:34:23</p> <p>6 A Sitting in front of the gentleman with the 7 blue jacket?</p> <p>8 Q Correct.</p> <p>9 A No.</p> <p>10 Q Do you know whether there was a student 09:34:34 11 named Gloria Printz in this picture? 12 A No. 13 Q Do you recall the name Gloria Printz as 14 somebody you went to high school with? 15 A Yes. 09:34:58</p> <p>16 Q And when is the last time you spoke with 17 Gloria Printz? 18 A I don't know. 19 Q Do you know whether she still lives in 20 Nevada? 09:35:18</p> <p>21 A No. 22 Q Do you know whether she got married after 23 high school? 24 A No. 25 Q Do you know whether she still goes by the 09:35:25 Page 50</p>	<p>1 MR. BAUMANN: Sam, are you able to see 09:36:57 2 that in the Exhibit Share folder? 3 MR. STRAUSS: I am, yes 4 BY MR. BAUMANN: 5 Q And then, Mr. Sessa, I will share my 09:37:03 6 screen with you 7 And are you able to see a document on your 8 screen, Mr. Sessa? 9 A Yes 10 Q And this is a document which has been 09:37:22 11 marked as Exhibit 3 12 I will zoom in a little bit and it has the 13 title at the top "All School lists and Yearbooks 14 results for Mark Sessa " 15 Do you see that? 09:37:35</p> <p>16 A Uh-huh 17 Q Is that a "yes"? 18 A Yes 19 Q And do you recognize this document? 20 A No 09:37:45</p> <p>21 Can we stop for a second I will -- and I 22 can go get my glasses 23 Q Of course, absolutely 24 A All right I will be back in a second 25 THE VIDEOGRAPHER: Do we stay on the 09:37:55 Page 52</p>
<p>1 name "Gloria Printz"? 09:35:28</p> <p>2 A No. 3 Q So looking back to this picture, is there 4 a student by the name of Ken Kurky in this picture? 5 A There could be. I can't see him but I 09:35:47 6 know he was in the band in '72. 7 Q And when is the last time you spoke with 8 Mr. Kurky? 9 A Maybe twelve years ago. 10 Q And do you know whether Mr. Kurky still 09:36:10 11 lives in Nevada? 12 A No. 13 Q Do you know if Ken Kurky still goes by the 14 name of "Ken Kurky"? 15 A No. 09:36:28</p> <p>16 MR. BAUMANN: I'm going to take this 17 document down and I want to look at another document 18 which, Sam, I will add to our Exhibit Share folder. 19 (Deposition Exhibit 3 was marked 20 for identification by the court 09:36:35 21 reporter and is attached hereto.) 22 BY MR. BAUMANN: 23 Q And then I will share my screen with you, 24 Mr. Sessa. 25 A Okay. 09:36:39 Page 51</p>	<p>1 record, Counsel? 09:37:56 2 MR. BAUMANN: We can go off of the record 3 for a minute 4 THE VIDEOGRAPHER: Going off the record 5 The time is 9:38 a m 09:38:02 6 (Off the record) 7 THE VIDEOGRAPHER: Back on the record 8 The time is 9:40 a m 9 BY MR. BAUMANN: 10 Q And, Mr. Sessa, we were looking here at a 09:40:30 11 document that has been marked as Exhibit 3 12 And I may have asked you this already but 13 do you recognize this document? 14 A No 15 Q Have you ever tried searching Ancestry's 09:40:42 16 website for your name? 17 A No 18 Q And we will see at the top of this 19 document, it says "All School Lists and Yearbooks 20 results for mark sessa " 09:40:56 21 Do you see that? 22 A Yes 23 Q And I will represent to you that you this 24 is a screenshot of Ancestry's web page when 25 searching your name, Mark Sessa, in the school list 09:41:07 Page 53</p>

<p>1 and yearbook collection. 09:41:11</p> <p>2 Do you have any reason to believe this is 3 not a printout of that web page?</p> <p>4 A I wouldn't know.</p> <p>5 Q If we look down below the title of this 09:41:21</p> <p>6 document, you will see to the left it says 1 through 7 20 of 2796.</p> <p>8 Do you see that?</p> <p>9 A Yes.</p> <p>10 Q Do you have an understanding of what that 09:41:34</p> <p>11 means?</p> <p>12 A There is 29 -- I guess there is 29 pages 13 of whatever is being looked up out of the 2700 14 however many pages, I am guessing.</p> <p>15 Q And then if we look towards the bottom of 09:41:58</p> <p>16 this document -- if I scroll down here to page 4 and 17 I can zoom in even a little bit more -- but this 18 says results 1 through 20 of 2796.</p> <p>19 Do you see that?</p> <p>20 A Uh-huh. 09:42:15</p> <p>21 Q And do you have an understanding of what 22 that means?</p> <p>23 A Yes, some, yeah.</p> <p>24 Q And what is your understanding?</p> <p>25 A That that is the page that pops up when 09:42:29 Page 54</p>	<p>1 MR. STRAUSS: You may ask to hear the 09:43:47</p> <p>2 question again.</p> <p>3 BY MR. BAUMANN:</p> <p>4 Q I can repeat that question if you would 5 like. 09:43:50</p> <p>6 A Okay.</p> <p>7 Q And do you have an understanding of what 8 that 1 of 140 means?</p> <p>9 A Yes.</p> <p>10 Q And what is your understanding? 09:44:04</p> <p>11 A That there is 140 pages associated with my 12 name.</p> <p>13 Q I'm going to scroll back up to the top of 14 this page if that is all right with you, Mr. Sessa.</p> <p>15 A Okay. 09:44:33</p> <p>16 Q And if we look at the top of this page, we 17 will see that it says "U.S. School Yearbooks, 18 1900-2016" in blue.</p> <p>19 Do you see that? And I can zoom more if 20 you would like. 09:44:57</p> <p>21 A It's at the top on the left or on the 22 right?</p> <p>23 Q So towards the center of the page, it's 24 the first row in the search results list. It says 25 "U.S. School Yearbooks, 1900-2016." 09:45:20 Page 56</p>
<p>1 you -- I guess when you put my name in. 09:42:37</p> <p>2 Q So it's your understanding that when you 3 put your name in, there is 2796 results?</p> <p>4 A Yes, yes, I do.</p> <p>5 Q And then if we look below that and if I 09:42:53</p> <p>6 scroll to the right here, it says 20 per page, 1 of 7 140.</p> <p>8 Do you see that?</p> <p>9 A I see the 1 of 140. On the other side, 10 yeah, I see 20 per page. Okay. 09:43:11</p> <p>11 Q And do you have an understanding of what 12 that means?</p> <p>13 A It means that --</p> <p>14 MR. STRAUSS: I want to make an 15 objection -- and I won't keep objecting but I just 09:43:19</p> <p>16 want to put on the record that Mr. Sessa's testimony 17 reflects that he's never been on this website and 18 the website speaks for itself.</p> <p>19 So I'm going to allow Mr. Sessa to answer 20 all of your remaining questions in this line of 09:43:32</p> <p>21 questions but just noted with that objection, if 22 that works for you, Jack.</p> <p>23 MR. BAUMANN: Understood.</p> <p>24 BY MR. BAUMANN:</p> <p>25 Q And Mr. Sessa -- 09:43:44 Page 55</p>	<p>1 Do you see that? 09:45:24</p> <p>2 A No There is some writing up at the top 3 left but I can't read it and I don't see anything 4 that says "yearbooks "</p> <p>5 Q So do you see, Mr Sessa, the title of 09:45:50</p> <p>6 this document that says "School Lists and yearbooks 7 results for mark sessa"?</p> <p>8 A Well, I don't have the school part All I 9 have is lists and yearbooks</p> <p>10 Q Sure 09:46:02</p> <p>11 And I can scroll to the right or to the 12 left so you can see that better</p> <p>13 Are you able to see where it says "All 14 School Lists and Yearbooks results for mark sessa"?</p> <p>15 A I do 09:46:11</p> <p>16 Q And then below that, do you see that it 17 says 1 through 20 of 7796?</p> <p>18 A Yes</p> <p>19 Q And then if we look below that -- and I 20 will move to the right here a little bit -- do you 09:46:21</p> <p>21 see an information icon that says "to get better 22 results"?</p> <p>23 A Yes</p> <p>24 Q And then right below that, do you see that 25 it says in blue, "U S School Yearbooks, 1900-2016"? 09:46:35 Page 57</p>

<p>1 A Yes. 09:46:40</p> <p>2 Q And then to the right of that, do you see 3 the name "Mark Sessa"?</p> <p>4 A Yes.</p> <p>5 Q And then below that says "Nevada, USA." 09:46:49</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q And do you know whether this first entry 9 here relates to one of your yearbook records?</p> <p>10 A You mean where it says "Lists and 09:47:03</p> <p>11 Yearbooks"?</p> <p>12 Q Correct.</p> <p>13 A I don't know.</p> <p>14 Q There might be other people named Mark 15 Sessa who attended high school in Nevada, right? 09:47:23</p> <p>16 A Sure.</p> <p>17 MR. STRAUSS: Object to form.</p> <p>18 You may answer it.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. BAUMANN: 09:47:28</p> <p>21 Q And if we look at the second entry below 22 that, we see in blue, "U.S. School Yearbooks, 23 1900-2016," and I don't know if you can see my blue 24 boxing around that or not.</p> <p>25 A I can, yeah. 09:47:46 Page 58</p>	<p>1 A Yes. 09:49:03</p> <p>2 Q And I think you testified earlier that you 3 have reviewed the complaint; is that right?</p> <p>4 A Yes.</p> <p>5 Q Now, as I understand it, one of the 09:49:19</p> <p>6 allegations you made is that users who hover over a 7 record on Ancestry's search results page, the user 8 will see a pop-up with a low-resolution version of 9 the underlying record; is that right?</p> <p>10 A Repeat that question. 09:49:39</p> <p>11 Q Sure.</p> <p>12 As I understand it, one of the allegations 13 you may have made here is that users who hover over 14 a record on the search results page on Ancestry's 15 website will see a pop-up with a low-resolution 09:49:51</p> <p>16 version of the underlying records.</p> <p>17 Am I correct that that is an allegation 18 that you have made?</p> <p>19 A Yes.</p> <p>20 You know what, I am not sure. Let me 09:50:08</p> <p>21 change that.</p> <p>22 Q Let me maybe expedite this a little bit.</p> <p>23 And I will scroll down to paragraph 42 and 24 tell me if you need me to zoom at all or you are 25 able to see this. 09:50:25 Page 60</p>
<p>1 Q Oh, great. 09:47:48</p> <p>2 And then to the right of that, do you see 3 the name "Mark Sessa" again?</p> <p>4 A Uh-huh.</p> <p>5 Q And then below that, "Nevada, USA." 09:47:54</p> <p>6 Do you see that?</p> <p>7 A I do.</p> <p>8 Q And do you know whether this entry here 9 reflects a yearbook record in which you appeared?</p> <p>10 A I don't know. 09:48:13</p> <p>11 Q Looking down this exhibit for a moment -- 12 and Mr. Sessa, you said you reviewed the complaint 13 in this case; is that right? That was the document 14 that we were looking at that had been marked as 15 Exhibit 1. 09:48:35</p> <p>16 And I can pull that back up if you would 17 like.</p> <p>18 A Yes, please.</p> <p>19 Q Of course.</p> <p>20 And are you able to see this document on 09:48:49</p> <p>21 my screen which has been marked as Exhibit 1?</p> <p>22 I will scroll down a little bit.</p> <p>23 A Yeah.</p> <p>24 Q And do you understand this to be the 25 complaint in this case? 09:49:00 Page 59</p>	<p>1 A Well, yeah, I can see it. 09:50:25</p> <p>2 Q And I will highlight in blue here the 3 language I had am referring to. It says, 4 "Users who search for Mark Sessa's 5 name are shown a limited version of 09:50:33</p> <p>6 the records corresponding to Mark 7 Sessa, which includes Mark Sessa's 8 name, city of residence, and a 9 low-resolution version of Mark 10 Sessa's photograph." 09:50:43</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q So I will take this one down for a second 14 and I want to share another exhibit which I will add 15 to the exhibit folder. 09:50:56</p> <p>16 MR. BAUMANN: And Sam, tell me when you 17 can see Exhibit 4 in the exhibit folder and then I 18 will share my screen. 19 (Deposition Exhibit 4 was marked 20 for identification by the court 09:51:18</p> <p>21 reporter and is attached hereto.)</p> <p>22 MR. STRAUSS: I see it.</p> <p>23 BY MR. BAUMANN:</p> <p>24 Q Great.</p> <p>25 And, Mr. Sessa, I will share my screen 09:51:22 Page 61</p>

<p>1 with you and I am going to pull up a document that 09:51:24</p> <p>2 has been marked as Exhibit 4.</p> <p>3 And Mr. Sessa, are you able to see my 4 screen?</p> <p>5 A Yes. 09:51:35</p> <p>6 Q And I can zoom in here quite a bit. 7 And Mr. Sessa, do you recognize this 8 document?</p> <p>9 A It's extremely blurred but I would have to 10 say no. 09:51:54</p> <p>11 Q And I can zoom in, Mr. Sessa, as much as 12 or as little as you would like and move it around 13 however you see fit.</p> <p>14 A Okay.</p> <p>15 Q Are you able to see that a little better? 09:52:14</p> <p>16 A Uh-huh.</p> <p>17 Q And now that you can see it a little 18 better, do you recognize this document?</p> <p>19 A No.</p> <p>20 Q So I will represent to you that this is 09:52:26</p> <p>21 another screenshot of the search results list for 22 Mark Sessa in the school list and yearbooks 23 collection of Ancestry's website.</p> <p>24 Do you have any reason to believe that 25 this isn't a screenshot of that web page? 09:52:40 Page 62</p>	<p>1 see that it says "Mark Sessa"? 09:53:58</p> <p>2 A It says the name "Mark Sessa," yes.</p> <p>3 Q And then down below that, it says, 4 "There's more to see. A picture of 5 the original document." 09:54:10</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q And then below that is an image. 9 Do you know what that image is?</p> <p>10 A Where it says "A picture of the original 09:54:18 11 document"?</p> <p>12 Q Yeah.</p> <p>13 Just below that, do you see an image on 14 the page?</p> <p>15 A It looks like -- yeah, it's hard to see 09:54:27</p> <p>16 but it looks like a page of pictures.</p> <p>17 Q And I can zoom in more on that. 18 Can you see that a little better now?</p> <p>19 A Yeah, it looks like a page of pictures.</p> <p>20 Q And do you know whether this is an image 09:54:48</p> <p>21 of one of the yearbook records in which you appear?</p> <p>22 A No.</p> <p>23 Q And are you able to identify yourself in 24 any of the headshots that appear in the image on 25 this page? 09:55:05 Page 64</p>
<p>1 A I wouldn't know. 09:52:49</p> <p>2 Q And we were just looking at a page 3 previously, Exhibit 3, that has search results from 4 Ancestry's website, right?</p> <p>5 A Correct. 09:52:59</p> <p>6 Q And if we look at this Exhibit 4, we see 7 on the right side of the page a pop-up bubble.</p> <p>8 Do you see that it says "Mark Sessa" at 9 the top?</p> <p>10 A No, I don't see anything pop-up on the 09:53:17</p> <p>11 screen. All I see is the page in question.</p> <p>12 Q Sure.</p> <p>13 And so what I am referring to here is do 14 you see this -- the blue box that I am highlighting 15 here? 09:53:31</p> <p>16 A Yes.</p> <p>17 Q And you see that it's got the little arrow 18 pointing off of the "U.S. School Yearbooks, 19 1900-2016" text?</p> <p>20 A Yeah, I see it. 09:53:43</p> <p>21 Q So that is what I am referring to as the 22 pop-up on this page.</p> <p>23 And you're able to see that all right?</p> <p>24 A Yeah.</p> <p>25 Q And if we look at the top of that, do you 09:53:56 Page 63</p>	<p>1 A No. 09:55:08</p> <p>2 Q Are you able to identify any of your 3 classmates in the thumbnail image on this page?</p> <p>4 A No.</p> <p>5 Q I'm going to take this document down for a 09:55:26</p> <p>6 second and I'm going to turn back to Exhibit 1, 7 which is the document we were previously looking at, 8 the complaint in this case, and I'm going to share 9 my screen with you again, Mr. Sessa, and let me know 10 once you are able to see it. 09:55:44</p> <p>11 Are you able to see that?</p> <p>12 A Yes.</p> <p>13 Q And I want to take a look at paragraph 39. 14 And if you look at the first sentence 15 there, it says, 09:55:56</p> <p>16 "A screenshot showing the results 17 of a search for Mark Sessa's name 18 on Ancestry.com is shown below." 19 Do you see that?</p> <p>20 A On what now, 39? 09:56:08</p> <p>21 Q Yeah, here in paragraph 39.</p> <p>22 A Looks like 20 -- 20 -- let's see -- mine 23 only goes to like 21 of the --</p> <p>24 Q Yeah.</p> <p>25 And so what I'm referring to, Mr. Sessa, 09:56:25 Page 65</p>

<p>1 is the paragraph numbers to the right of that. 09:56:28</p> <p>2 So I think you are looking at the line 3 numbers on the side.</p> <p>4 A Okay.</p> <p>5 Q But I am referring to the paragraph 09:56:36</p> <p>6 number.</p> <p>7 Do you see the number 39 there?</p> <p>8 A Yes, I do. Okay.</p> <p>9 Q And then the first portion of the first 10 sentence says, 09:56:44</p> <p>11 "A screenshot showing the results 12 of a search for Mark Sessa's name 13 on Ancestry.com is shown below." 14 Do you see that?</p> <p>15 A Yes. 09:56:52</p> <p>16 Q And is it your understanding that these 17 images that follow -- and we can scroll through 18 them -- but is it your understanding that these 19 reflect the search results for your name in 20 Ancestry's yearbook database? 09:57:07</p> <p>21 A Would you repeat that, please.</p> <p>22 Q Sure.</p> <p>23 Is it your understanding that these images 24 in paragraph 39 reflect the search results for your 25 name in Ancestry's yearbook database? 09:57:24 Page 66</p>	<p>1 A No 09:59:08</p> <p>2 Q Do you know when these images were 3 captured from Ancestry's website?</p> <p>4 A No</p> <p>5 Q And if we look down below at the 09:59:24</p> <p>6 screenshot, it says results 1 through 4 of 4</p> <p>7 Do you see that?</p> <p>8 A It's below the --</p> <p>9 Q And I can highlight it and zoom in a bit</p> <p>10 Do you see that below the picture? 09:59:45</p> <p>11 A One through 4 of 4, yes</p> <p>12 Q And is it your understanding that this 13 search of your name on Ancestry's website pulled up 14 four results?</p> <p>15 A Yes 10:00:05</p> <p>16 Q Do you know whether any of your other 17 yearbook records appear on Ancestry's website?</p> <p>18 A No</p> <p>19 Q Is it your understanding, Mr. Sessa, that 20 these are the four yearbook records on which your 10:00:22</p> <p>21 claims against Ancestry are based?</p> <p>22 MR. STRAUSS: Object to the form of the 23 question</p> <p>24 You may answer it</p> <p>25 THE WITNESS: Would you repeat the 10:00:38 Page 68</p>
<p>1 A I don't know. I mean -- so you're . . . 09:57:32</p> <p>2 Q If I zoom in here a little bit, Mr. Sessa, 3 and we look down at the images here, are you able to 4 see those?</p> <p>5 A Okay. Yeah, yes, I am. 09:58:04</p> <p>6 Q Great. So . . .</p> <p>7 A There is four images.</p> <p>8 Q And so I'm looking back here at the start 9 of paragraph 39 and it says, 10 "A screenshot showing the results 09:58:19</p> <p>11 of the search for Mark Sessa's name 12 on Ancestry.com is shown below." 13 And you see that, correct?</p> <p>14 A Yes.</p> <p>15 Q And is it your understanding that these 09:58:30</p> <p>16 images that follow in this paragraph 39, the ones we 17 were just looking at --</p> <p>18 A Yes.</p> <p>19 Q -- reflect the search for your name in 20 Ancestry's yearbook database? 09:58:40</p> <p>21 A Yes.</p> <p>22 Q Do you know who conducted these searches?</p> <p>23 A No.</p> <p>24 Q Do you know what search terms or 25 parameters were used to locate these images? 09:59:00 Page 67</p>	<p>1 question, please. 10:00:39</p> <p>2 BY MR. BAUMANN:</p> <p>3 Q Of course.</p> <p>4 Is it your understanding, Mr. Sessa, that 5 these are the four yearbook records on which your 10:00:44</p> <p>6 claims against Ancestry are based?</p> <p>7 MR. STRAUSS: Same objection.</p> <p>8 You may answer.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. BAUMANN: 10:00:53</p> <p>11 Q Are you aware of any other yearbook 12 records on Ancestry's website depicting you other 13 than these four that we're looking at here?</p> <p>14 A I wouldn't know.</p> <p>15 Q I'm going to zoom in here on the fourth 10:01:13</p> <p>16 record down here.</p> <p>17 And are you able to see an image on the 18 fourth record down on the far right side here?</p> <p>19 A Yes, barely. It looks like a group photo 20 but I don't know of what -- or I can't -- yeah, I 10:01:33</p> <p>21 can't distinguish what it is.</p> <p>22 Q So it's pretty small.</p> <p>23 I take it you wouldn't be able to identify 24 anybody's face in that thumbnail image.</p> <p>25 A Not of the one you are showing me, no. 10:02:01 Page 69</p>

<p>1 Q And do you know whether you appear in that 10:02:07 2 thumbnail image? 3 A No. 4 Q So for these images above, as I understand 5 it, your counsel applied some blurring software. 10:02:22 6 I'm not sure whether that was applied to this fourth 7 image but just to be sure, I will take this down for 8 one second and I'm going to mark another exhibit, 9 Exhibit 5. 10 (Deposition Exhibit 5 was marked 10:02:38 11 for identification by the court 12 reporter and is attached hereto.) 13 MR. BAUMANN: And I will add that to the 14 share folder and then Sam, if you can let me know 15 when you have it, I will share my screen with 10:02:45 16 Mr. Sessa. 17 MR. STRAUSS: I have it, yes. 18 BY MR. BAUMANN: 19 Q Great. 20 And Mr. Sessa, I'm going to pull up what 10:03:02 21 has been marked as Exhibit 5 and I can zoom in. 22 Mr. Sessa, are you able to see this 23 document on your screen? 24 A Yes. 25 Q And do these images on this document -- 10:03:25 Page 70</p>	<p>1 MR. STRAUSS: Got it. 10:05:07 2 Well, okay, well, because I might be 3 experiencing delayed connectivity, I guess what I 4 would ask is just wait a moment before you answer. 5 THE WITNESS: Sure, sorry. 10:05:19 6 MR. STRAUSS: No problem, and it's 7 probably on my end. Sorry for all of this dialogue 8 on the record, Jack. It's back to you. 9 MR. BAUMANN: No problem, and thank you, 10 Sam. 10:05:30 11 BY MR. BAUMANN: 12 Q So I was asking about the second image on 13 this Exhibit 5, the black and white one, and I was 14 asking whether you are able to identify yourself in 15 that image, Mr. Sessa. 10:05:40 16 Are you able to do so? 17 A Yes. 18 Q And where do you appear in that image? 19 A In the very back to the right. 20 Q And Mr. Sessa, are you able to see your 10:06:08 21 face in that image? 22 A No. 23 Q How do you know that is you in the back to 24 the right? 25 A I remember this picture. 10:06:26 Page 72</p>
<p>1 and we can go back to it -- appear to be the same 10:03:30 2 images reflected in paragraph 39 of your complaint? 3 A They seem to be. 4 Q So if we zoom in now, Mr. Sessa, on the 5 group photo we were looking at earlier, are you able 10:03:56 6 to see that on your screen? 7 A Yes. 8 Q And are you able to identify yourself in 9 this top thumbnail here, the red one that appears to 10 be a group picture? 10:04:15 11 A On the very top one? 12 Q Correct. 13 A No. 14 Q What about in the picture below that, the 15 black and white one that appears to be another group 10:04:36 16 picture, are you able to identify yourself in that 17 image? 18 A I'm sitting behind the drum set. 19 MR. STRAUSS: Sorry to jump in, Jack and 20 Mr. Sessa, and I know I am a broken record but, 10:04:51 21 Mr. Sessa, will you, please, wait for Mr. Baumann to 22 finish his question. 23 THE WITNESS: I think -- I think there 24 might be a glitch because I am hearing the entire 25 question before I answer. 10:05:05 Page 71</p>	<p>1 Q You remember taking the picture? 10:06:32 2 A No, I remember somebody else taking the 3 picture. 4 Q And you remember seeing this picture? 5 A Yes. 10:06:42 6 Q And where did you see it? 7 A That, I don't remember. 8 Q Do you remember when you last saw this 9 picture? 10 A When I last saw this picture? 10:06:58 11 Q Yes. 12 A No. 13 Q And the version of this picture that you 14 saw, was it a small thumbnail version like we're 15 looking at here? 10:07:14 16 A No. 17 Q Was it in higher resolution such that you 18 could see people's faces? 19 A Yes. 20 Q Had you had not seen that 10:07:27 21 higher-resolution version of this picture earlier, 22 would you be able to identify yourself in this 23 thumbnail image we are looking at here? 24 A Yes. 25 Q And how would you do that? 10:07:44 Page 73</p>

<p>1 A I was there when the picture was taken. 10:07:48</p> <p>2 Q So you would agree, Mr. Sessa, that you 3 can't see your face in this picture, correct?</p> <p>4 A Correct. Not in this thumbnail.</p> <p>5 Q And had you not been in the picture, you 10:08:15</p> <p>6 wouldn't be able to identify who is Mark Sessa 7 amongst the people in this picture, correct?</p> <p>8 A Not in this thumbnail, no.</p> <p>9 Q I'm going to take this down for a moment 10 and I am going to jump back to Exhibit 1 which is 10:08:38</p> <p>11 the complaint in this case that we were looking at 12 previously, and in particular at paragraph 39 that 13 you're looking at.</p> <p>14 And I will share my screen with you, 15 Mr. Sessa, and let me know when you are able to see 10:08:54</p> <p>16 it.</p> <p>17 A Uh-huh.</p> <p>18 Q Are you able to see that?</p> <p>19 And if we look at the last sentence in 20 this paragraph 39, it says, 10:09:10</p> <p>21 "In the original records Ancestry 22 created and is currently using Mark 23 Sessa's face is plainly visible and 24 identifiable." 25 Do you see that? 10:09:24 Page 74</p>	<p>1 visible in that thumbnail image? 10:10:26</p> <p>2 A Well, it's visible.</p> <p>3 Q This is the black and white group photo 4 that we were just looking at a moment ago --</p> <p>5 A Yes. 10:10:41</p> <p>6 Q -- in Exhibit 5.</p> <p>7 And in that thumbnail image of this black 8 and white photo that we were looking at on 9 Exhibit 5, which is the thumbnail photo that appears 10 first in this paragraph 39, you weren't able to see 10:10:54</p> <p>11 your face in that picture, were you, Mr. Sessa?</p> <p>12 A No.</p> <p>13 Q So you would disagree with this allegation 14 in paragraph 39 of your complaint that Mark Sessa's 15 face is plainly visible and identifiable in those 10:11:11</p> <p>16 two images, right?</p> <p>17 MR. STRAUSS: Object to the form of the 18 question.</p> <p>19 You can answer, Mr. Sessa.</p> <p>20 THE WITNESS: Well, in the two that I am 10:11:39</p> <p>21 looking at, I know that I am in the top one, but as 22 far as the bottom one, no.</p> <p>23 BY MR. BAUMANN:</p> <p>24 Q Right.</p> <p>25 And my question, Mr. Sessa, was a little 10:11:56 Page 76</p>
<p>1 A Yes. 10:09:26</p> <p>2 Q And before that, it says, 3 "To protect their privacy, 4 throughout this complaint 5 Plaintiff's counsel have used 10:09:31</p> <p>6 photo-editing software to obscure 7 Mark Sessa's face and the names and 8 images of other students." 9 Do you see that?</p> <p>10 A Yes. 10:09:41</p> <p>11 Q But then it goes on to say, as I 12 understand it -- and you can correct me if I am 13 wrong -- had that photo software not been used, Mark 14 Sessa's face is plainly visible and identifiable in 15 the images. 10:09:57</p> <p>16 Do you see that?</p> <p>17 A Uh-huh.</p> <p>18 Q So we just looked at the thumbnail of this 19 group picture at the very bottom and you would agree 20 your face wasn't really visible in that thumbnail of 10:10:09</p> <p>21 the group picture, correct?</p> <p>22 A Correct.</p> <p>23 Q And the same was true of the first group 24 picture up here.</p> <p>25 You would agree that your face wasn't 10:10:24 Page 75</p>	<p>1 bit different, not whether you knew if you were in 10:11:57</p> <p>2 the photo or not, but my question is specifically do 3 you agree that in those two group photos we just 4 looked at your face is not plainly visible and 5 identifiable?</p> <p>10:12:12</p> <p>6 A On these particular two, no.</p> <p>7 Q And I think we have a double negative 8 again with the record.</p> <p>9 So just to be clear, your face is not 10 plainly visible and identifiable in the two group 10:12:29</p> <p>11 picture thumbnails that we looked at that appear in 12 this paragraph 39 and that were also in that 13 Exhibit 5 we were just looking at, correct?</p> <p>14 A In these two photos, that is correct.</p> <p>15 Q So if we look back up at paragraph 39 10:12:49</p> <p>16 here -- and I'm going to highlight a sentence -- 17 it says, 18 "These pages are accessible both to 19 paying subscribers and to users of 20 Ancestry's promotional 14-day 'free 10:13:03</p> <p>21 trial." 22 Do you see that?</p> <p>23 A Yes.</p> <p>24 Q So it was your understanding when you made 25 this allegation that to access the images reflected 10:13:16 Page 77</p>

<p>1 in this paragraph 39 that the user has to sign up 10:13:20</p> <p>2 for Ancestry either as a free trial user or a paying 3 subscriber?</p> <p>4 MR. STRAUSS: Object to the form of the 5 question. 10:13:31</p> <p>6 You may answer it, Mr. Sessa.</p> <p>7 THE WITNESS: Well, it appears to me that 8 it says that these are available to those who sign 9 up for the fourteen-day free trial but that doesn't 10 mean that anybody else can't see these pictures. 10:13:52</p> <p>11 BY MR. BAUMANN:</p> <p>12 Q And do you know whether anybody else -- 13 sorry, I did not mean to cut you off. Go on. 14 Were you finished with your answer, 15 Mr. Sessa? 10:14:06</p> <p>16 A Yes.</p> <p>17 Q And do you know whether anybody other than 18 paying subscribers and fourteen-day free trial users 19 can access the images that are reflected in this 20 paragraph 39? 10:14:22</p> <p>21 A I don't know.</p> <p>22 Q So do you have an understanding as you sit 23 here today whether somebody must be a subscriber to 24 Ancestry's services to access the images reflected 25 in this paragraph 39? 10:14:39 Page 78</p>	<p>1 A If you join or have a fourteen-day free 10:16:12</p> <p>2 trial, you can see my picture</p> <p>3 Q And I think you said -- and apologies if I 4 already asked this -- but do you know who captured 5 these images in paragraph 39? 10:16:31</p> <p>6 A No</p> <p>7 Q Setting aside the person who captured 8 these images, do you know whether any free trial 9 user on Ancestry's website has ever searched for 10 your name on the site? 10:16:50</p> <p>11 A No</p> <p>12 Q And again, setting aside whoever captured 13 these images in paragraph 39, do you know whether 14 any paying subscriber has ever searched your name on 15 Ancestry's website? 10:17:11</p> <p>16 A No</p> <p>17 Q I want to the turn away from this 18 Exhibit 1 for a moment and I will stop sharing my 19 screen and I want you to -- 20 MR STRAUSS: Before we go to your next 10:17:38</p> <p>21 line of questions, would now be an okay time for a 22 break?</p> <p>23 MR BAUMANN: Absolutely</p> <p>24 MR STRAUSS: So Jack, this is your 25 deposition and I want to be respectful but how would 10:17:48 Page 80</p>
<p>1 MR. STRAUSS: Object to the form of the 10:14:44</p> <p>2 question.</p> <p>3 You may answer it, Mr. Sessa.</p> <p>4 THE WITNESS: My Internet is -- it's gone, 5 but I didn't hear the last part of your -- what you 10:15:07</p> <p>6 were saying, Sam.</p> <p>7 MR. STRAUSS: So I will tell you before 8 Mr. Baumann asks the question again that I am 9 objecting to the form of the question and then I 10 won't -- I won't make that objection at the end. I 10:15:29</p> <p>11 will make it at the beginning so if Mr. Baumann 12 wants to ask the question, that objection is 13 attached to it, but I also said you may answer 14 the question.</p> <p>15 BY MR. BAUMANN: 10:15:41</p> <p>16 Q And Mr. Sessa, I assume you need me to 17 repeat the question?</p> <p>18 A Correct. I did not hear it.</p> <p>19 Q Do you have an understanding as you sit 20 here today whether somebody must be a subscriber 10:15:51</p> <p>21 to Ancestry's services to access the images that 22 are reflected in this Exhibit 39 -- sorry -- 23 paragraph 39?</p> <p>24 A Yes.</p> <p>25 Q And what is your understanding? 10:16:07 Page 79</p>	<p>1 you feel about a ten- or fifteen-minute break? 10:17:51</p> <p>2 MR. BAUMANN: All good.</p> <p>3 THE VIDEOGRAPHER: Going off the record. 4 The time is 10:17 a m. 5 (Off the record.) 10:18:01</p> <p>6 THE VIDEOGRAPHER: Back on the record. 7 The time is 10:32 a m.</p> <p>8 BY MR. BAUMANN:</p> <p>9 Q Mr. Sessa, I want to take a look at 10 another document which has been marked as Exhibit 6. 10:32:13</p> <p>11 (Deposition Exhibit 6 was marked 12 for identification by the court 13 reporter and is attached hereto.)</p> <p>14 MR. BAUMANN: And Sam, if you could let me 15 know once you see that in your folder, I can pull it 10:32:18</p> <p>16 up on my screen and share it with Mr. Sessa.</p> <p>17 MR. STRAUSS: I see it.</p> <p>18 BY MR. BAUMANN:</p> <p>19 Q Mr. Sessa, I am sharing my screen with you 20 now with the document that has been marked as 10:32:37</p> <p>21 Exhibit 6 which is a document produced here as 22 Ancestry 000003.</p> <p>23 Are you able to see that document, 24 Mr. Sessa?</p> <p>25 A I am. 10:32:48 Page 81</p>

<p>1 Q And do you recognize this document? 10:32:50</p> <p>2 A Yes.</p> <p>3 Q And what is it?</p> <p>4 A It's a picture of the Blue Freedom 5 Singers. It's kind of like a pop band that I was 10:33:02</p> <p>6 in in high school.</p> <p>7 Q And do you appear in this picture?</p> <p>8 A Excuse me?</p> <p>9 Q Do you appear in this picture?</p> <p>10 A I do. 10:33:18</p> <p>11 Q And where are you in this picture?</p> <p>12 A I am in the very back sitting behind the 13 drum set.</p> <p>14 Q And do you have an understanding, 15 Mr. Sessa, as to whether this picture is the picture 10:33:31</p> <p>16 that was reflected in the thumbnail that we were 17 looking at earlier in Exhibit 5?</p> <p>18 A Yes.</p> <p>19 Q And if you look down at the subscription 20 below this image -- I will scroll down here and I 10:33:54</p> <p>21 will zoom in -- are you able to see the text that is 22 written down below here?</p> <p>23 A I can read the larger one but --</p> <p>24 Q I can zoom in even more on the lower ones.</p> <p>25 A I can now. 10:34:12</p> <p style="text-align: right;">Page 82</p>	<p>1 him in this picture? 10:35:12</p> <p>2 A I do not.</p> <p>3 Q So this says that Kent Sevy appeared --</p> <p>4 sorry. Go on.</p> <p>5 A No, go ahead. 10:35:21</p> <p>6 Q I was going to say this says that Kent 7 Sevy appears in the picture but it doesn't appear 8 that he, in fact, does, right?</p> <p>9 A Well, all the way to the far right, you 10 can see Kent -- half of Kent's head. 10:35:34</p> <p>11 Q And you would agree that you can't see 12 Kent's face in this picture, correct?</p> <p>13 A No, I agree.</p> <p>14 Q And if you were not in the band with Kent, 15 would you have been able to identify that that was 10:35:55</p> <p>16 Kent in this photograph?</p> <p>17 MR. STRAUSS: Object to the form of the 18 question.</p> <p>19 You may answer, Mr. Sessa.</p> <p>20 THE WITNESS: I wouldn't be able to 10:36:09</p> <p>21 identify him.</p> <p>22 BY MR. BAUMANN:</p> <p>23 Q And I'm sorry, my audio cut out just a 24 little bit. So I didn't catch your response.</p> <p>25 What was your response? 10:36:18</p> <p style="text-align: right;">Page 84</p>
<p>1 Q And do you see -- and I will scroll as I 10:34:14</p> <p>2 read it because we zoomed in quite a bit -- but it 3 says,</p> <p>4 "This page, top row, Gary Peterson, 5 Roger Ghormley, Mark Sessa and Kent 10:34:22</p> <p>6 Sevy."</p> <p>7 Do you see that?</p> <p>8 A Yes.</p> <p>9 Q So I want to go back to the top row of 10 this picture. 10:34:36</p> <p>11 And who is this fellow on the left?</p> <p>12 A Gary Peterson.</p> <p>13 Q And then who is the fellow playing the 14 guitar in the middle?</p> <p>15 A Roger Ghormley. 10:34:52</p> <p>16 Q And then you said that was you on the drum 17 kit; is that right?</p> <p>18 A Yes.</p> <p>19 Q So we have got Gary Peterson, Roger 20 Ghormley, and you. 10:35:01</p> <p>21 Where is Kent Sevy?</p> <p>22 A He must be to the far right playing the 23 keyboard.</p> <p>24 Q And if I -- sorry.</p> <p>25 If I scroll over to the right, do you see 10:35:09</p> <p style="text-align: right;">Page 83</p>	<p>1 A I would not be able to identify him. 10:36:19</p> <p>2 Q So based on this picture alone, you 3 wouldn't be able to tell whether that half figure on 4 the right is or isn't Kent Sevy; is that right?</p> <p>5 A Yes. 10:36:37</p> <p>6 MR. STRAUSS: Object to the form of the 7 question.</p> <p>8 You may answer it, Mr. Sessa.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. BAUMANN: 10:36:40</p> <p>11 Q I'm going to take down this document and I 12 want to return to the complaint which we had marked 13 as Exhibit 1.</p> <p>14 And I will share my screen with you, 15 Mr. Sessa, and can you let me know once you are able 10:36:55</p> <p>16 to see it.</p> <p>17 A Okay.</p> <p>18 Q Are you able to see the document on my 19 screen, Mr. Sessa?</p> <p>20 A Yes. 10:37:06</p> <p>21 Q And I want to take a look at paragraph 43 22 in your complaint which I can highlight here.</p> <p>23 Are you able to see that?</p> <p>24 A Yes.</p> <p>25 Q And this says in the first portion of the 10:37:22</p> <p style="text-align: right;">Page 85</p>

<p>1 first sentence, 10:37:26</p> <p>2 "A screenshot showing the 3 results of a search for Mark 4 Sessa's name on the promotional 5 limited-access version of the 10:37:33</p> <p>6 Ancestry website is shown below." 7 Do you see that?</p> <p>8 A Uh-huh.</p> <p>9 Q And what does "promotional limited-access 10 version" mean? 10:37:46</p> <p>11 A It's on a trial base for a limited amount 12 of time.</p> <p>13 Q So we had looked up earlier, Mr. Sessa, 14 and we can scroll back up to paragraph 39. 15 Do you see that? 10:38:13</p> <p>16 A Yes.</p> <p>17 Q And so this says, 18 "A screenshot showing the results 19 of Mark Sessa's name on 20 Ancestry.com is shown below." 10:38:31</p> <p>21 And then it goes on to say, 22 "These pages are accessible both to 23 paying subscribers and to users of 24 Ancestry's promotional 14-day 'free 25 trial.'" 10:38:44</p> <p style="text-align: right;">Page 86</p>	<p>1 paragraph 43? 10:40:15</p> <p>2 A I am not sure</p> <p>3 Q And I will scroll back up to paragraph 43 4 so you can look at those again -- sorry, paragraph 5 39 10:40:32</p> <p>6 So here are the search results in 7 paragraph 39</p> <p>8 Are you able to see those?</p> <p>9 A Where it says results one of four?</p> <p>10 Q Yes, correct 10:40:41</p> <p>11 A Yes</p> <p>12 Q So take a look at those search results in 13 paragraph 39</p> <p>14 And paragraph 39 was the one that said it 15 was accessible to paying subscribers and 10:40:50</p> <p>16 fourteen-day free trial users, correct?</p> <p>17 A Correct</p> <p>18 Q So remember what those search results look 19 like, and then I'm going to go back down to 20 paragraph 43 10:41:04</p> <p>21 And are you able to see those search 22 results in paragraph 43 of your complaint?</p> <p>23 A Yes</p> <p>24 Q And these search results reflected in the 25 screenshot of paragraph 43 of your complaint may 10:41:28</p> <p style="text-align: right;">Page 88</p>
<p>1 Do you see that? 10:38:45</p> <p>2 A Yes.</p> <p>3 Q So going back to paragraph 43, paragraph 4 39 referred to the promotional fourteen-day free 5 trial, and this paragraph 43 refers to promotional 10:39:02</p> <p>6 limited-access version.</p> <p>7 Do you have an understanding whether there 8 is a difference between those two?</p> <p>9 A I don't know.</p> <p>10 Q And then if we look at the screenshots 10:39:21</p> <p>11 that follow in this paragraph 43 -- and I will 12 scroll down -- are you able to see those?</p> <p>13 A No.</p> <p>14 Q Let me zoom in a bit and you can tell me 15 if you are able to see it a bit better. 10:39:37</p> <p>16 Are you able to see these screenshots 17 reflected on this page? And I can scroll around as 18 needed.</p> <p>19 A Yes.</p> <p>20 Q And these look a little different than 10:39:55</p> <p>21 these search results that we were looking at in 22 paragraph 43, and I can scroll back up to those if 23 you need to refresh your recollection on what they 24 look like, but would you agree that these look 25 different than the search results reflected in 10:40:12</p> <p style="text-align: right;">Page 87</p>	<p>1 look different than the ones we just looked at in 10:41:32</p> <p>2 paragraph 39 of your complaint, right?</p> <p>3 A Yes.</p> <p>4 Q And we see here in the -- sorry, I didn't 5 mean to cut you off. 10:41:48</p> <p>6 A The other ones had my pictures and this 7 one just has where it says show image. You probably 8 have to click on it to see my pictures.</p> <p>9 Q Right.</p> <p>10 So what I'm trying to understand is 10:42:01</p> <p>11 whether you know why the search results in 12 paragraph 43 which says these are accessible to 13 promotional limited access-version users look 14 different than those in paragraph 39 which said that 15 they were visible to paying subscribers and 10:42:21</p> <p>16 fourteen-day free trial users.</p> <p>17 Do you have an understanding as to why 18 these two look different from one another?</p> <p>19 A No.</p> <p>20 Q Moving back up to paragraph 39, do you 10:42:41</p> <p>21 know whether these images reflected here are 22 available to promotional limited-access users of 23 Ancestry's website?</p> <p>24 A No.</p> <p>25 Q Now, let's scroll back down to 10:43:08</p> <p style="text-align: right;">Page 89</p>

<p>1 paragraph 43, and we are looking at the search 10:43:17</p> <p>2 results here which reflect your name and then it 3 says "Nevada, USA "</p> <p>4 Are you able to see those?</p> <p>5 A Underneath the headings "All U S School 10:43:30</p> <p>6 Yearbooks, 1990-1999"?</p> <p>7 Q Correct</p> <p>8 A It says -- it's got my name and state and 9 USA, and like I say, it's got little tabs you can 10 click on that says "see image " 10:44:00</p> <p>11 That is what I see</p> <p>12 Q And do you know as you sit here right now 13 whether any of these four results that are listed 14 here are your yearbook record as opposed to another 15 Mark Sessa's yearbook record? 10:44:18</p> <p>16 A No</p> <p>17 Q Do you know whether any user of Ancestry's 18 website has ever searched for your name on the site?</p> <p>19 A No</p> <p>20 MR STRAUSS: Object to form 10:44:44</p> <p>21 You may answer it</p> <p>22 THE WITNESS: No</p> <p>23 BY MR BAUMANN:</p> <p>24 Q I want to take this down and I want to the 25 look at Exhibit 4 again which is a document that we 10:44:59 Page 90</p>	<p>1 Q I will take that one down. 10:46:29</p> <p>2 I want to jump back to the complaint again 3 which we had marked as Exhibit 1, and I'm going to 4 share my screen with you, Mr. Sessa, and you can let 5 me know when you are able to see it. 10:46:50</p> <p>6 Are you able to see that?</p> <p>7 A Yes.</p> <p>8 Q And I want to take a look at paragraph 44 9 here which goes from the bottom of page 21 up and 10 through page 22. 10:47:03</p> <p>11 Do you see that?</p> <p>12 A Where it says -- paragraph 44?</p> <p>13 Q Correct. And I can highlight.</p> <p>14 A Yeah, I see it.</p> <p>15 Q And I want to direct your attention in 10:47:16</p> <p>16 particular to the last sentence in this paragraph, 17 which I will highlight here and I can zoom in more 18 if you need it.</p> <p>19 Let me know, are you able to see that, 20 Mr. Sessa? 10:47:33</p> <p>21 A Yes.</p> <p>22 Q And that says, 23 "Upon information and belief, 24 Ancestry has and continues to send 25 targeted promotional and email 10:47:41 Page 92</p>
<p>1 previously looked at and I will share my screen with 10:45:05</p> <p>2 you, Mr. Sessa.</p> <p>3 And I will zoom way in because -- and you 4 will be able to see it better.</p> <p>5 And do you recall, Mr. Sessa, that we were 10:45:20</p> <p>6 looking at this Exhibit 4 previously?</p> <p>7 A Yes.</p> <p>8 Q And we saw what I was referring to as this 9 pop-up here that says "Mark Sessa" at the top. 10 Do you see that? 10:45:40</p> <p>11 A Yes.</p> <p>12 Q And then down below that there is a 13 thumbnail image.</p> <p>14 Do you see that?</p> <p>15 A Yeah, underneath where it says "There's 10:45:49</p> <p>16 more to see"?</p> <p>17 Q Yes.</p> <p>18 A Yeah, "A picture of your original 19 document." Okay.</p> <p>20 Q And this says "Mark Sessa" at the top and 10:46:04</p> <p>21 it's got an image of this document.</p> <p>22 And I think we might have covered this 23 earlier but you don't know whether this is a page 24 from your yearbook record, do you?</p> <p>25 A I do not know. 10:46:19 Page 91</p>	<p>1 messages including Mark Sessa's 10:47:43</p> <p>2 name, photograph, and likeness "</p> <p>3 Do you see that?</p> <p>4 A Uh-huh</p> <p>5 Q And -- 10:47:52</p> <p>6 A Yes</p> <p>7 Q And what is your basis for that 8 allegation?</p> <p>9 A I saw my pictures</p> <p>10 Q And have you ever seen any of your 10:48:12</p> <p>11 pictures in a targeted promotional E-mail?</p> <p>12 A No</p> <p>13 Q So sticking specifically with the 14 appearance of your pictures in any E-mails sent by 15 Ancestry, what is your basis for saying that 10:48:33</p> <p>16 Ancestry has and continues to send targeted 17 promotional E-mail messages including Mark Sessa's 18 name, photograph, and likeness?</p> <p>19 A Well, I saw my pictures on the site 20 Otherwise, I wouldn't know All of that stuff that 10:48:49</p> <p>21 gets sent to me goes to my junk file</p> <p>22 Q And do you know whether any such E-mail 23 has ever been sent to you?</p> <p>24 A I don't know</p> <p>25 Q Do you know whether any such E-mail 10:49:09 Page 93</p>

<p>1 including your information has ever been sent to 10:49:11</p> <p>2 anyone?</p> <p>3 MR. STRAUSS: Object to the form of the 4 question.</p> <p>5 You may answer it. 10:49:18</p> <p>6 THE WITNESS: I don't know.</p> <p>7 BY MR. BAUMANN:</p> <p>8 Q Do you know what a targeted promotional 9 E-mail message is?</p> <p>10 A An E-mail that is sent to a specific 10:49:34</p> <p>11 person or group of persons.</p> <p>12 Q And do you have an understanding of what 13 information appears in targeted promotional E-mails?</p> <p>14 A Specific to what?</p> <p>15 No, I don't. I don't know what goes into 10:50:02</p> <p>16 them.</p> <p>17 Q Do you know whether the targeted 18 promotional E-mails referenced in paragraph 44 of 19 your complaint contain any person's name?</p> <p>20 A No. 10:50:19</p> <p>21 Q Do you know whether the targeted 22 promotional E-mails referenced in paragraph 44 of 23 your complaint contain anyone's photograph?</p> <p>24 A No.</p> <p>25 Q This paragraph, and in particular the 10:50:36 Page 94</p>	<p>1 Are you able to see this document, 10:52:36</p> <p>2 Mr. Sessa?</p> <p>3 A Yes, I am.</p> <p>4 Q So in paragraph 22 of your complaint, you 5 say that you are not a subscriber of any 10:52:47</p> <p>6 Ancestry.com products or services.</p> <p>7 Do you see that?</p> <p>8 A Which line?</p> <p>9 Q And I will highlight it right here, 10 paragraph 22. Sorry, this is -- 10:53:09</p> <p>11 A That is my brother.</p> <p>12 Q Let me move down to the correct paragraph 13 for you, which is -- let's see. Here we go.</p> <p>14 Looking at paragraph 34 in your complaint, 15 Mr. Sessa, and I can highlight it here, it says, 10:53:55</p> <p>16 "Plaintiff Mark Sessa is a 17 resident of Las Vegas, Nevada. 18 Mark Sessa is not a subscriber of 19 any of Ancestry.com products or 20 services." 10:54:07</p> <p>21 Do you see that?</p> <p>22 A Yes.</p> <p>23 Q So based on that allegation, do you have 24 an understanding as to whether certain individuals 25 are subscribers to Ancestry.com products or 10:54:18 Page 96</p>
<p>1 sentence we are looking at, refers to the term 10:50:41</p> <p>2 "likeness" in addition to name and photograph.</p> <p>3 What do you understand a likeness to be?</p> <p>4 A It could be a drawing.</p> <p>5 Q Anything else? 10:51:02</p> <p>6 A Not that I am aware.</p> <p>7 Q And do you know whether the targeted 8 promotional E-mail messages referenced in 9 paragraph 44 of your complaint include any person's 10 likeness? 10:51:24</p> <p>11 A I don't know.</p> <p>12 Q I can take this document down for now, and 13 we might have tread this ground already, Mr. Sessa. 14 So apologies if we did but have you ever visited 15 Ancestry's website? 10:51:49</p> <p>16 A No.</p> <p>17 Q And I take it then you have never had a 18 subscription to Ancestry's website?</p> <p>19 A No.</p> <p>20 Q Are you aware that some services available 10:52:08</p> <p>21 on Ancestry's website are available only to those 22 that have a subscription to the site?</p> <p>23 A I don't know.</p> <p>24 Q Let me pull back up paragraph 22 in 25 Exhibit 1 which is your complaint in this action. 10:52:24 Page 95</p>	<p>1 services? 10:54:22</p> <p>2 MR. STRAUSS: Object to the form of the 3 question.</p> <p>4 You may answer it, Mr. Sessa.</p> <p>5 THE WITNESS: I imagine so. 10:54:31</p> <p>6 BY MR. BAUMANN:</p> <p>7 Q And this goes on to say Plaintiff Mark 8 Sessa, 9 "... is not subject to a Terms of 10 Service or any other agreement with 10:54:44</p> <p>11 Ancestry.com."</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q And do you have an understanding whether 15 subscribers to Ancestry.com are required to agree to 10:55:00</p> <p>16 Ancestry's terms and conditions?</p> <p>17 MR. STRAUSS: Object to form.</p> <p>18 You may answer.</p> <p>19 THE WITNESS: I don't know.</p> <p>20 BY MR. BAUMANN: 10:55:15</p> <p>21 Q So I take it -- well, have you ever agreed 22 to Ancestry's terms and conditions, Mr. Sessa?</p> <p>23 A Not to my knowledge.</p> <p>24 Q I will take this one down again.</p> <p>25 Mr. Sessa, do you maintain any social 10:55:44 Page 97</p>

<p>1 media profiles? 10:55:45</p> <p>2 Sorry, were you able to hear my question?</p> <p>3 A I am sorry, no.</p> <p>4 Q Do you maintain any social media profiles?</p> <p>5 A Yes. 10:56:09</p> <p>6 Q And what social media profiles do you 7 have?</p> <p>8 A Facebook, LinkedIn. There might be a 9 couple of more that I don't remember at this time.</p> <p>10 Q Do you have a Twitter? 10:56:40</p> <p>11 A I'm not sure.</p> <p>12 Q Do you have an Instagram?</p> <p>13 A I believe so. I don't use them, so I'm 14 not quite sure.</p> <p>15 Q So I think you recalled that you had a 10:57:06</p> <p>16 Facebook profile.</p> <p>17 A I do.</p> <p>18 Q Do you put pictures of yourself on your 19 Facebook profile?</p> <p>20 A I do. 10:57:17</p> <p>21 Q And do you share your name on your 22 Facebook profile?</p> <p>23 A I don't believe so.</p> <p>24 Q It's your understanding that your Facebook 25 profile doesn't have your name? 10:57:34 Page 98</p>	<p>1 A I rarely go on there. So I am not sure if 10:58:53</p> <p>2 it's my name or if it's Roger name.</p> <p>3 Q And I can pull up a document real quick 4 here which let me add to our exhibit folder first. 5 (Deposition Exhibit 7 was marked 10:59:18</p> <p>6 for identification by the court 7 reporter and is attached hereto.)</p> <p>8 MR. BAUMANN: And Sam, let me know when 9 you are able to get that document.</p> <p>10 MR. STRAUSS: I have it. 10:59:43</p> <p>11 MR. BAUMANN: Great.</p> <p>12 BY MR. BAUMANN:</p> <p>13 Q So this, Mr. Sessa -- I will share my 14 screen -- is a document that has now been marked as 15 Exhibit 7. I will pull this up. 10:59:53</p> <p>16 Are you able to see that document?</p> <p>17 A Yes.</p> <p>18 Q And do you recognize that document?</p> <p>19 A Yes.</p> <p>20 Q And what is that? 11:00:14</p> <p>21 A It's a picture of me and my work at 22 Trader Joe's but I'm not sure -- I think this is 23 LinkedIn.</p> <p>24 Q And if we look at the top of this page, it 25 says Mark Sessa, Section Leader, Trader Joe's 11:00:42 Page 100</p>
<p>1 A It's under a different name. 10:57:37</p> <p>2 Q And what name do you have your Facebook 3 profile under?</p> <p>4 A "Roger Rhythm."</p> <p>5 Q And why do you use that name, Mr. Sessa? 10:57:48</p> <p>6 A Because I am a drummer.</p> <p>7 Q What about on your LinkedIn, Mr. Sessa, 8 have you shared photographs of yourself on your 9 LinkedIn?</p> <p>10 A I am not sure. 10:58:05</p> <p>11 Q What about your name, have you shared your 12 name through your LinkedIn page?</p> <p>13 A Again, I am not sure. It could --</p> <p>14 MR. BAUMANN: And I don't know if it was 15 just on my end, Sam, but did Mr. Sessa glitch out on 10:58:30</p> <p>16 you, too?</p> <p>17 THE WITNESS: I am sorry. I didn't hear 18 you.</p> <p>19 BY MR. BAUMANN:</p> <p>20 Q I think we have you back. 10:58:40</p> <p>21 A Okay.</p> <p>22 Q We didn't catch your response. 23 I had asked whether you shared your name 24 on your LinkedIn profile and then I didn't hear the 25 answer. 10:58:50 Page 99</p>	<p>1 LinkedIn. 11:00:46</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q And do you understand this to be your 5 LinkedIn page? 11:00:52</p> <p>6 A I believe so.</p> <p>7 Q And I can scroll down on it, as well, if 8 you need to see more.</p> <p>9 That is a position you held, correct, 10 Section Leader at Trader Joe's? 11:01:08</p> <p>11 A Correct.</p> <p>12 Q So looking at this LinkedIn page, you put 13 a picture of yourself on it, right?</p> <p>14 A Yes.</p> <p>15 Q And you have your name on here, correct? 11:01:23</p> <p>16 A Correct.</p> <p>17 Q And your name is searchable on LinkedIn, 18 correct?</p> <p>19 MR. STRAUSS: Object to the form of the 20 question. 11:01:45</p> <p>21 You may answer it, Mr. Sessa.</p> <p>22 THE WITNESS: I am not sure.</p> <p>23 BY MR. BAUMANN:</p> <p>24 Q Have you visited LinkedIn before? 25 A A few times. 11:01:52 Page 101</p>

<p>1 Q Have you ever tried to find another 11:01:56 2 person's LinkedIn profile? 3 A I don't remember 4 Q To the best of your understanding as you 5 are sitting here today, how would you go about 11:02:21 6 finding another person's profile on LinkedIn? 7 A There is probably a search bar where you 8 put the person's name in 9 Q And do you have an understanding whether 10 if someone were to go on LinkedIn and type in Mark 11:02:39 11 Sessa they would be able to locate your LinkedIn 12 profile? 13 MR STRAUSS: Object to form 14 You may answer it 15 THE WITNESS: Unless there is more than 11:02:51 16 one Mark Sessa 17 BY MR. BAUMANN: 18 Q Do you have an understanding whether if 19 they searched Mark Sessa, your profile would be 20 among those that are pulled up on LinkedIn? 11:03:07 21 A It should 22 Q And you chose to share A Picture Of 23 Yourself And Your Name On LinkedIn, Correct? 24 A Yes 25 Q Does LinkedIn contain any advertisements 11:03:42 Page 102</p>	<p>1 something in mind for how it might be used to 11:05:18 2 promote LinkedIn. 3 What did you have in mind? 4 MR. STRAUSS: Same objection. 5 You may answer it, Mr. Sessa. 11:05:26 6 THE WITNESS: My name and our photo either 7 separate or together with some sort of advertisement 8 as, you know, connect with people you haven't seen 9 in a long time or connect with fellow musicians or 10 something along that line, I guess. 11:05:48 11 BY MR. BAUMANN: 12 Q And do you know whether LinkedIn does that 13 with your picture or your name? 14 A I don't know. 15 Q Why haven't you checked? 11:06:02 16 MR. STRAUSS: Object to the form of the 17 question. 18 You may answer, Mr. Sessa. 19 THE WITNESS: I don't know. 20 BY MR. BAUMANN: 11:06:18 21 Q Is it your understanding that your 22 information on Ancestry's website is used to promote 23 Ancestry? 24 A Would you repeat the question, please. 25 Q Sure. 11:06:39 Page 104</p>
<p>1 on the pages that you visited? 11:03:44 2 A I don't remember 3 Q Would it bother you if LinkedIn contained 4 advertisements on its website? 5 A If they used my image and/or name to 11:04:13 6 promote it, yes 7 Q You said if they used your image or name 8 to promote it 9 What do you mean by that? 10 A Well, I am on this site so that I can 11:04:28 11 connect with other musicians 12 If they used my name and my picture to 13 promote LinkedIn, I did not authorize them to do so 14 Q And that's what I am trying to understand 15 When you say used it to promote LinkedIn, 11:04:52 16 what do you mean by used it to promote? How would 17 they use it to promote LinkedIn? 18 MR STRAUSS: I object to the form of the 19 question 20 You may answer it, Mr Sessa 11:05:03 21 THE WITNESS: I don't know I am not in 22 advertising 23 BY MR. BAUMANN: 24 Q Well, you said it would bother you if they 25 used it to promote LinkedIn So you must have had 11:05:16 Page 103</p>	<p>1 Is it your understanding that the yearbook 11:06:40 2 information that is on Ancestry's website, your 3 yearbook information, is used to promote Ancestry? 4 A It could be 5 Q And do you know whether it is? 11:06:57 6 A No, I don't go on that site 7 Q So as you sit here today, you don't know 8 one way or the other whether Ancestry uses your 9 information to promote its website? 10 A I'm not sure 11:07:31 11 Q If Ancestry enabled users to search your 12 name such that it comes up in a list of search 13 results like on LinkedIn, in your view would that be 14 Ancestry using your name to promote its website? 15 MR STRAUSS: Object to the form of the 11:07:53 16 question 17 You may answer it, Mr Sessa 18 THE WITNESS: Would you repeat the 19 question, please 20 BY MR. BAUMANN: 11:08:00 21 Q Sure 22 If someone's able to search your name on 23 Ancestry's website, in your view is that using your 24 name to promote Ancestry's website? 25 MR STRAUSS: Object to the form of the 11:08:12 Page 105</p>

<p>1 question 11:08:13</p> <p>2 You may answer it</p> <p>3 THE WITNESS: Yes</p> <p>4 BY MR. BAUMANN:</p> <p>5 Q Why? 11:08:16</p> <p>6 A If my name or likeness or picture wasn't 7 on there, they wouldn't be able to do that I 8 didn't give them the permission to do that</p> <p>9 Q And when you say "to do that," you mean to 10 be -- 11:08:36</p> <p>11 A Search for my name</p> <p>12 Q Does your name appear in the Las Vegas 13 Yellow Pages?</p> <p>14 A I don't know</p> <p>15 Q Have you ever looked in a Las Vegas Yellow 11:08:54</p> <p>16 Pages?</p> <p>17 A Yes</p> <p>18 Q And in the White Pages section of those 19 books, there is usually a directory of people's 20 names and telephone numbers, right? 11:09:12</p> <p>21 A Yes</p> <p>22 Q And do you know one way or the other 23 whether your name has ever appeared in the Las Vegas 24 White Pages?</p> <p>25 MR. STRAUSS: Object to the form of the 11:09:29 Page 106</p>	<p>1 appear in the Yellow Pages of a directory? 11:10:53</p> <p>2 A I don't know.</p> <p>3 Q And as you sit here today, in your view if 4 your name were to appear in the White Pages 5 directory, is that using your name to promote either 11:11:13</p> <p>6 the businesses in the Yellow Pages or White Pages 7 directory, itself?</p> <p>8 MR. STRAUSS: Object to form.</p> <p>9 You may answer it.</p> <p>10 THE WITNESS: I don't know. 11:11:26</p> <p>11 BY MR. BAUMANN:</p> <p>12 Q But in your view, Ancestry making your 13 name searchable on its website is using your name to 14 promote Ancestry's product; is that right?</p> <p>15 A Yes, being charged -- they charge for a 11:11:47</p> <p>16 service.</p> <p>17 Q Have you ever visited the "New York Times" 18 online?</p> <p>19 A Yes.</p> <p>20 Q And that website is behind a pay wall, 11:12:15</p> <p>21 correct?</p> <p>22 A Is behind what?</p> <p>23 Q A pay wall. You have to pay in order to 24 read the articles, right?</p> <p>25 A I don't know. 11:12:32 Page 108</p>
<p>1 question 11:09:30</p> <p>2 You may answer it</p> <p>3 THE WITNESS: I don't know</p> <p>4 BY MR. BAUMANN:</p> <p>5 Q In your view, if your name appeared in the 11:09:35</p> <p>6 Las Vegas White Pages directory, is that using your 7 name to promote the Las Vegas White Pages directory?</p> <p>8 MR. STRAUSS: Same objection</p> <p>9 You may answer it</p> <p>10 THE WITNESS: I'm not sure They don't 11:09:50</p> <p>11 charge for the directory</p> <p>12 BY MR. BAUMANN:</p> <p>13 Q The Yellow Pages section of the directory 14 contains advertisements for businesses, right?</p> <p>15 MR. STRAUSS: Object to form 11:10:17</p> <p>16 You may answer the question</p> <p>17 THE WITNESS: Correct</p> <p>18 BY MR. BAUMANN:</p> <p>19 Q So you would agree that the directory is 20 being used to advertise, right? 11:10:27</p> <p>21 MR. STRAUSS: Same objection</p> <p>22 You may answer it</p> <p>23 THE WITNESS: I don't know</p> <p>24 BY MR. BAUMANN:</p> <p>25 Q Do you know whether businesses pay to 11:10:48 Page 107</p>	<p>1 Q Have you ever visited a news website where 11:12:33</p> <p>2 you have to pay to access the articles?</p> <p>3 A No.</p> <p>4 Q Are you aware that for some news websites 5 you have to pay to access the articles that are 11:12:47</p> <p>6 available on that news website?</p> <p>7 A No.</p> <p>8 MR. STRAUSS: Object to the form of the 9 question.</p> <p>10 You may answer. 11:12:55</p> <p>11 Jack, before you jump into your next 12 question, I am just wondering about taking another 13 break but I don't want to interrupt a line of 14 questioning.</p> <p>15 So do you have a sense of when may be 11:13:06</p> <p>16 convenient?</p> <p>17 MR. BAUMANN: Maybe like five or ten 18 minutes if that works for you. If it's urgent, we 19 can do it now.</p> <p>20 MR. STRAUSS: No, that is perfect. I 11:13:17</p> <p>21 appreciate that.</p> <p>22 MR. BAUMANN: Great.</p> <p>23 BY MR. BAUMANN:</p> <p>24 Q So Mr. Sessa, do you know whether certain 25 news websites are accessible only to paying 11:13:24 Page 109</p>

<p>1 subscribers? 11:13:28</p> <p>2 MR. STRAUSS: Objection to form. 3 You may answer it. 4 THE WITNESS: I don't know. 5 BY MR. BAUMANN: 11:13:34</p> <p>6 Q Let's assume the "New York Times" website 7 is only accessible to paying users. 8 If the "New York Times" had an article 9 about president Joe Biden and it was only accessible 10 to those who had paid to subscribe to the "New York 11 Times" website, in your view would that be using 12 President Joe Biden's name to promote the "New York 13 Times"? 14 MR. STRAUSS: I object to the form of the 15 question. 11:14:10</p> <p>16 You may answer it, Mr. Sessa. 17 THE WITNESS: In my opinion that they -- 18 people who wanted to read that article would have to 19 pay, so I would have to say I think so. 20 If you can't -- if you don't pay, you are 11:14:34</p> <p>21 not able to be able to read that article. 22 BY MR. BAUMANN: 23 Q So in your view, a news record that is 24 accessible only behind a pay wall, whoever's name 25 appears in that, their names are being used to</p> <p style="text-align: right;">11:14:51 Page 110</p>	<p>1 people to join their -- join Ancestry.com. 11:39:08</p> <p>2 Q Let's say, Mr. Sessa, that nobody had ever 3 searched your name or picture on Ancestry. 4 You would agree then that your name and 5 picture weren't used to promote Ancestry's site, 11:39:27</p> <p>6 right? 7 MR. STRAUSS: Objection to form. 8 You may answer, Mr. Sessa. 9 THE WITNESS: No, I would not agree. 10 BY MR. BAUMANN: 11:39:40</p> <p>11 Q Why not? 12 A Just because somebody didn't see it didn't 13 mean that they didn't use it. 14 Q And how did they use it if nobody's ever 15 seen it? 11:39:53</p> <p>16 A Well, they still post my picture without 17 my -- without asking me for permission. 18 Q So I want to focus in on what you are 19 alleging is promotion, which is using the picture to 20 gain subscribers to Ancestry's site; is that 11:40:18</p> <p>21 correct? 22 A Yes. 23 Q And if nobody had ever seen your picture, 24 how would that help Ancestry gain any subscribers? 25 MR. STRAUSS: Object to form.</p> <p style="text-align: right;">11:40:36 Page 112</p>
<p>1 promote the newspaper? 11:14:55</p> <p>2 MR. STRAUSS: Object to the form of the 3 question. 4 You may answer it. 5 THE WITNESS: Not everybody's name but 11:15:06</p> <p>6 otherwise, yes. 7 MR. BAUMANN: Sam, we can take a break. 8 MR. STRAUSS: Awesome. So Jack -- let's 9 go off the record. 10 THE VIDEOGRAPHER: Going off the record. 11:15:24</p> <p>11 The time is 11:15 a.m. 12 (Off the record.) 13 THE VIDEOGRAPHER: Back on the record. 14 The time is 11:38 a.m. 15 BY MR. BAUMANN: 11:38:19</p> <p>16 Q Mr. Sessa, welcome back. Sorry to retread 17 for a moment here but just to get us back on pace, 18 so as I understand it, Mr. Sessa, your claims 19 against Ancestry are based on Ancestry's use of your 20 yearbook records to promote its website. 11:38:38</p> <p>21 Is that what you are alleging? 22 A Yes. 23 Q And how does Ancestry use your yearbook 24 records to promote its site? 25 A They use my picture as a way to get other</p> <p style="text-align: right;">11:38:59 Page 111</p>	<p>1 You may answer it. 11:40:36</p> <p>2 THE WITNESS: If somebody hasn't seen it 3 yet doesn't mean that they won't in the future. 4 BY MR. BAUMANN: 5 Q So let's assume that nobody has seen it 11:40:50</p> <p>6 and they won't in the future. 7 You would agree then that your picture 8 wasn't used to promote Ancestry's site, right? 9 MR. STRAUSS: Object to form. 10 You may answer it. 11:41:03</p> <p>11 THE WITNESS: They're still using it. So 12 I would have to say yes, they're still using my 13 image to promote their product. 14 BY MR. BAUMANN: 15 Q Well, as I understood your testimony, 11:41:18</p> <p>16 Mr. Sessa, you believe Ancestry.com is using it to 17 promote the product because the picture might 18 attract new subscribers to Ancestry's site; is that 19 right? 20 A Yes. 11:41:32</p> <p>21 Q And so that is the promotion aspect in 22 your mind, is that somebody might see that picture 23 and then subscribe to Ancestry's site; is that 24 right? 25 A I'm not sure how they're using it because</p> <p style="text-align: right;">11:41:44 Page 113</p>

<p>1 I don't go on the site, but I know just for them to 11:41:47</p> <p>2 put my picture up and without my permission, they're 3 using it.</p> <p>4 Q Right.</p> <p>5 And I want to focus in on what you are 11:41:58</p> <p>6 alleging to be use for promotion, which as I 7 understand it in your mind is Ancestry's use of the 8 picture to gain new subscribers; is that right?</p> <p>9 A That is part of it, yes.</p> <p>10 Q And what is the other part of it? 11:42:17</p> <p>11 A Well, I have a personal belief that 12 they're going to try and get as many people to join 13 as possible for other purposes.</p> <p>14 Q So I think we have covered now your 15 understanding of the way that Ancestry uses your 11:42:47</p> <p>16 picture to promote its site is to show the picture 17 to get new subscribers to sign up; is that right?</p> <p>18 MR. STRAUSS: I am going to object on 19 form.</p> <p>20 And Jack, I feel like we have gone through 11:43:01</p> <p>21 this line of questioning multiple times now and I 22 haven't objected but I want to put on the record it 23 seems like we are retreading quite a few times this 24 area.</p> <p>25</p> <p style="text-align: right;">Page 114</p>	<p>1 A I don't know. 11:44:17</p> <p>2 Q So focussing in on use of your picture to 3 gain new subscribers, what I want to understand is 4 in your mind, if nobody has ever viewed that 5 picture, is Ancestry using it to promote its 11:44:28</p> <p>6 website?</p> <p>7 MR. STRAUSS: Object to form.</p> <p>8 And again, Jack, we are not going to run 9 through the same questions again. So you can answer 10 it but then we have to stop running through this. 11:44:42</p> <p>11 You know, asked and answered. I don't like making 12 speaking objections but . . .</p> <p>13 BY MR. BAUMANN:</p> <p>14 Q Go ahead, Mr. Sessa.</p> <p>15 A Would you repeat the question, please. 11:44:54</p> <p>16 Q Sure.</p> <p>17 If Ancestry's never showed your picture to 18 a potential subscriber of the site or to anyone 19 else, for that matter, how in your mind is Ancestry 20 using your picture to promote its website? 11:45:09</p> <p>21 MR. STRAUSS: Same objection.</p> <p>22 You may answer.</p> <p>23 THE WITNESS: I don't know that nobody has 24 seen it. I don't go on to the website.</p> <p>25 The very fact that my picture is there 11:45:21</p> <p style="text-align: right;">Page 116</p>
<p>1 BY MR. BAUMANN: 11:43:16</p> <p>2 Q Go ahead, Mr. Sessa.</p> <p>3 A Would you repeat that question.</p> <p>4 Q Sure.</p> <p>5 So I had asked you if it's your 11:43:21</p> <p>6 understanding that Ancestry uses your picture to 7 promote its website by showing it to individuals who 8 Ancestry hopes to become new subscribers and you 9 said that is part of it.</p> <p>10 So what I am trying to understand now is 11:43:35</p> <p>11 the whole of it in terms of your understanding of 12 how Ancestry uses your picture to promote its 13 website.</p> <p>14 And the first aspect as I understand it is 15 showing the picture to get somebody to subscribe to 11:43:50</p> <p>16 the site --</p> <p>17 A Yes.</p> <p>18 Q -- is that right?</p> <p>19 And then the other portion that you 20 discussed was that Ancestry wants to gain as many 11:43:58</p> <p>21 subscribers as possible; is that right?</p> <p>22 A Yes.</p> <p>23 Q And then is there any other way in your 24 view that Ancestry uses your picture to promote its 25 website? 11:44:16</p> <p style="text-align: right;">Page 115</p>	<p>1 without my permission is -- is fact that they're 11:45:29</p> <p>2 using it to promote without my -- without my say so</p> <p>3 BY MR. BAUMANN:</p> <p>4 Q And that includes if nobody's ever seen it 5 such that they might subscribe to the website? 11:45:53</p> <p>6 A Nobody's ever seen it, I don't know</p> <p>7 MR. STRAUSS: I'm going to object to the 8 form of the question</p> <p>9 And Jack, this is the last time I am going 10 to stop the deposition We can't just go through 11:46:06</p> <p>11 the same questions over and over</p> <p>12 MR. BAUMANN: I am trying to understand 13 Mr. Sessa's understanding and that seems to be, you 14 know, evolving a bit as we go through the questions 15 So I want to make sure I have a complete 11:46:19</p> <p>16 understanding of it</p> <p>17 My goal here is not to ask the same 18 question over again but to get Mr. Sessa's complete 19 understanding so, you know, we can get to a point 20 once we have got that where I can ask if there is 11:46:31</p> <p>21 anything else, but at this juncture it seems that 22 there is, you know, a little bit of evolution in his 23 answer So I am just trying to understand where 24 that stands</p> <p>25 MR. STRAUSS: So I am unclear about that 11:46:45</p> <p style="text-align: right;">Page 117</p>

<p>1 last answer, but I don't think for counsel we should 11:46:47</p> <p>2 be speaking on the record about the testimony, but 3 what I will say is that I am uncomfortable and it is 4 not an appropriate line of questioning to repeat the 5 same thing. 11:46:59</p> <p>6 So the last time you went through the 7 question, I said that's the last time but this time 8 I want you to know I sincerely mean that you can't 9 do this.</p> <p>10 So Mr. Sessa, you can answer this question 11:47:10</p> <p>11 one last time.</p> <p>12 Jack, maybe if you want to take a break, 13 we can take this offline but this is just not an 14 appropriate line of questioning to just recycle 15 through. 11:47:23</p> <p>16 MR. BAUMANN: Yeah, I think I disagree. 17 I actually forgot what my last question 18 was at this point. So I can probably ask the 19 reporter to read it back, but I can assure you this 20 won't go on for much longer. 11:47:33</p> <p>21 MR. STRAUSS: Sounds good, and I want to 22 be respectful of the fact that this is your 23 deposition and I want you to get the testimony or at 24 least ask the questions that you wish.</p> <p>25 (The previous question and answer 11:47:44 Page 118</p>	<p>1 your name or image to promote LinkedIn's website? 11:49:41</p> <p>2 MR. STRAUSS: Object to form</p> <p>3 You may answer</p> <p>4 THE WITNESS: No</p> <p>5 BY MR. BAUMANN: 11:49:55</p> <p>6 Q Why not?</p> <p>7 A I am the one who put the picture up and 8 put my name up there and information so that I could 9 connect with other people who have similar 10 interests 11:50:15</p> <p>11 Q But as I understand this button -- and you 12 can correct me if I am wrong -- this is asking new 13 visitors to LinkedIn whether they want to join 14 LinkedIn's website; is that right?</p> <p>15 A I am not sure 11:50:33</p> <p>16 Q And you chose to post your picture on 17 LinkedIn, right?</p> <p>18 A Yes</p> <p>19 Q And you chose to post your name on 20 LinkedIn; is that right? 11:50:48</p> <p>21 A Yes</p> <p>22 Q And you knew that would be visible to 23 other people who visited LinkedIn's website?</p> <p>24 A I imagine so</p> <p>25 Q And looking at this screen now, you knew 11:51:04 Page 120</p>
<p>1 was read back by the court reporter 11:47:44</p> <p>2 as follows: 3 "QUESTION: And that includes 4 if nobody's ever seen it such that 5 they might subscribe to the 11:45:54</p> <p>6 website? 7 "ANSWER: Nobody's ever seen 8 it, I don't know.") 9 BY MR. BAUMANN: 10 Q Mr. Sessa, I want to turn back to 11:48:36</p> <p>11 Exhibit 8 real quick which we looked at earlier and 12 this was your LinkedIn profile, correct?</p> <p>13 A Yes.</p> <p>14 Q And if we look at the center of this page, 15 do you see what appears to be a hyperlink that says 11:48:56</p> <p>16 "Join to Connect"? 17 A Yes.</p> <p>18 Q And do have an understanding of what that 19 button on LinkedIn's website does? 20 A Yes. 11:49:16</p> <p>21 Q And what does it do? 22 A If you want to join LinkedIn, you click on 23 that link.</p> <p>24 Q In your view, Mr. Sessa, is this using 25 your -- this LinkedIn profile on Exhibit 8 using 11:49:36 Page 119</p>	<p>1 that LinkedIn would solicit users to join their 11:51:07</p> <p>2 website on the same page as your name and picture 3 appear; is that right?</p> <p>4 MR. STRAUSS: Object to the form of the 5 question. 11:51:19</p> <p>6 You may answer it.</p> <p>7 THE WITNESS: I suppose.</p> <p>8 BY MR. BAUMANN: 9 Q I will take down this exhibit. 10 How do you contend, Mr. Sessa, that you 11:51:33</p> <p>11 have been harmed by Ancestry's use of your picture 12 on its website?</p> <p>13 A I don't know how my picture ended up on 14 their website. It was not -- it's not my intention 15 for my picture to be up on their website or any 11:52:00</p> <p>16 personal information about me.</p> <p>17 Q Are there any other ways you contend you 18 have been harmed by Ancestry's use of your picture 19 on its website? 20 A Yes. 11:52:36</p> <p>21 Q And what are those? 22 A I have noticed that -- let's just say that 23 it contradicts my belief system.</p> <p>24 Q And what do you mean by that, Mr. Sessa? 25 A As an example, if someone -- 11:53:21 Page 121</p>

<p>1 hypothetically, if someone was to put somebody's 11:53:25</p> <p>2 name up there without their permission, somebody 3 else on this website could see that and decide to 4 use their name in a -- in a way that wouldn't be 5 appropriate. 11:53:53</p> <p>6 It would baptize them into, let's say, a 7 belief system that wasn't agreeable to them. 8 Q I'm trying to understand when you say 9 "baptize them into a belief system they're not 10 agreeable with," what you mean by that. 11:54:22</p> <p>11 A What I mean by that is -- 12 Q Can you explain. 13 A The -- there is a church that has a belief 14 system that you can baptize into that church by 15 proxy. They don't even have to know they have been 11:54:47</p> <p>16 baptized. 17 As long as they have got the person's 18 name, they can baptize them. They don't even have 19 to go to that church. They don't even know that 20 they have been baptized. 11:55:03</p> <p>21 Somebody sees my name and decides they 22 want to baptize me into that church, they can do so, 23 and a lot of these -- a lot of these sites use that 24 information. They could use that information like 25 that. 11:55:24</p> <p style="text-align: right;">Page 122</p>	<p>1 MR. STRAUSS: Same objection. 11:57:09</p> <p>2 You may answer it, Mr. Sessa. 3 THE WITNESS: Again, I don't think so. 4 BY MR. BAUMANN: 5 Q And have you ever provided written consent 11:57:14</p> <p>6 to any third parties to use your likeness? 7 MR. STRAUSS: Same objection. 8 You may answer it, Mr. Sessa. 9 THE WITNESS: Not that I am aware of. 10 BY MR. BAUMANN: 11:57:30</p> <p>11 Q When you first were depicted in the 12 yearbook back when you were in high school, do you 13 recall whether you had to sign off on any written 14 consent to appear in the yearbook? 15 A I don't remember. 11:57:45</p> <p>16 Q Have you ever granted any license to any 17 person to use your name? 18 A I don't believe so. 19 Q Have you ever granted any license to a 20 person to use your likeness? 11:58:07</p> <p>21 A Again, I don't think so. 22 Q And have you ever granted any license to 23 any person to use your identity or your persona? 24 MR. STRAUSS: Object to the form of the 25 question. 11:58:23</p> <p style="text-align: right;">Page 124</p>
<p>1 More, those people that are on 11:55:30</p> <p>2 Ancestry.com, I don't know what their intent is. 3 Q And your name appears in other locations 4 like on your LinkedIn profile besides Ancestry.com, 5 right? 11:55:50</p> <p>6 A Correct. 7 Q So to sort of wrap this up, are there any 8 other ways that you contend you have been harmed by 9 Ancestry's use of your yearbook photograph on its 10 website? 11:56:09</p> <p>11 A Not that I am aware of but that doesn't 12 mean there isn't. I just don't know about them yet. 13 Q Have you ever provided written consent to 14 anyone for use of your yearbook information? 15 A Not that I am aware of. I don't think so, 11:56:40</p> <p>16 no. 17 Q Have you ever provided written consent to 18 any third parties to use your name? 19 MR. STRAUSS: Object to the form of the 20 question. 11:56:57</p> <p>21 You may answer it, Mr. Sessa. 22 THE WITNESS: I don't believe so. 23 BY MR. BAUMANN: 24 Q Have you ever provided written consent to 25 any third parties to use your identity? 11:57:04</p> <p style="text-align: right;">Page 123</p>	<p>1 You may answer, Mr. Sessa 11:58:23</p> <p>2 THE WITNESS: I don't believe so 3 BY MR. BAUMANN: 4 Q Have you granted any form of permission or 5 authorization to another person to use your name? 11:58:36</p> <p>6 MR. STRAUSS: Object to the form of the 7 question 8 You may answer it 9 THE WITNESS: Another person? I don't 10 believe so 11:58:47</p> <p>11 BY MR. BAUMANN: 12 Q What about any other -- setting aside 13 people, any entity to use your name? 14 MR. STRAUSS: Object to form 15 You may answer it 11:58:59</p> <p>16 THE WITNESS: I don't believe so, no 17 BY MR. BAUMANN: 18 Q And have you ever granted any form of 19 permission or authorization to another person to use 20 your identity? 11:59:15</p> <p>21 A For somebody else to use my identity, no 22 Q What about your persona? 23 A No 24 Q Mr. Jacob (sic), do you know whether your 25 attorneys have ever accessed Ancestry's website? 11:59:36</p> <p style="text-align: right;">Page 125</p>

<p>1 A I'm sorry, could you repeat that question. 11:59:41</p> <p>2 Q Yeah, no problem.</p> <p>3 Do you know whether your attorneys have 4 ever accessed Ancestry's website?</p> <p>5 A I am not sure. 11:59:51</p> <p>6 Q Is that something you would expect them to 7 do as part of their investigation of this lawsuit?</p> <p>8 A Yes, yes.</p> <p>9 MR. STRAUSS: Mr. Sessa, I just want to 10 remind you again -- and my apologies -- please, 12:00:02</p> <p>11 don't respond to Mr. Baumann's questions until he is 12 finished asking.</p> <p>13 And I realize this is probably a delay on 14 my end, so please, give me an extra second so I can 15 hear the whole question. 12:00:17</p> <p>16 BY MR. BAUMANN:</p> <p>17 Q And do you recall, Mr. Sessa, we looked at 18 some images in the complaint -- and I can pull it 19 back up if you need to -- that were accessible only 20 to subscribers of Ancestry's website? 12:00:30</p> <p>21 A Yeah, could you pull those back up.</p> <p>22 Q Yeah, definitely.</p> <p>23 I'm going to pull back up here Exhibit 1 24 which is the complaint and I'm going to scroll down 25 to paragraph 39. 12:00:52</p> <p style="text-align: right;">Page 126</p>	<p>1 BY MR. BAUMANN: 12:02:06</p> <p>2 Q I will take this document down.</p> <p>3 So Mr. Sessa, do you have an understanding 4 that that case has been asserted as a class action 5 lawsuit? 12:02:18</p> <p>6 A A class action, yes.</p> <p>7 Q And do you understand that you have 8 alleged that you can serve as a representative of 9 that class?</p> <p>10 A I am sorry. Would you repeat the last 12:02:35</p> <p>11 part of that question.</p> <p>12 Q Sure.</p> <p>13 Do you have an understanding that you have 14 claimed that you can serve as a representative of 15 that class? 12:02:44</p> <p>16 A Yes.</p> <p>17 Q And do you have an understanding of what 18 it means to serve as a class representative?</p> <p>19 A Yes.</p> <p>20 Q And what is your understanding of what 12:03:00</p> <p>21 that entails?</p> <p>22 A That I would represent the people who in 23 the State of Nevada who have a part of this class 24 action suit against Ancestry.com.</p> <p>25 Q And is there any reason that you do not 12:03:23</p> <p style="text-align: right;">Page 128</p>
<p>1 A Okay. 12:00:56</p> <p>2 Q Do you see that?</p> <p>3 And here we have a sentence in your 4 complaint that says, 5 "These pages are accessible both to 12:01:03</p> <p>6 paying subscribers and to users of 7 Ancestry's promotional 14-day 'free 8 trial.'"</p> <p>9 Do you see that?</p> <p>10 A I do. 12:01:14</p> <p>11 Q And did you have an understanding that to 12 access those pictures, one would need to subscribe 13 to Ancestry either through a fourteen-day free trial 14 or through a regular subscription?</p> <p>15 A Yes. 12:01:39</p> <p>16 Q And do you have an understanding whether 17 your attorneys would have viewed these records 18 reflected in paragraph 39 as part of the 19 investigation of your claims?</p> <p>20 MR. STRAUSS: I object to the form of the 12:01:53</p> <p>21 question.</p> <p>22 You may answer it, Mr. Sessa.</p> <p>23 THE WITNESS: I would imagine so but I 24 don't know. 25</p> <p style="text-align: right;">Page 127</p>	<p>1 believe you could serve in that role? 12:03:25</p> <p>2 A At this time, no</p> <p>3 MR. BAUMANN: If you give me like three 4 minutes, I think we are probably done here</p> <p>5 MR. STRAUSS: Sounds good 12:03:44</p> <p>6 MR. BAUMANN: We will come back on maybe 7 like 12:06</p> <p>8 THE VIDEOGRAPHER: Going off the record 9 The time is 12:03 p m 10 (Off the record) 12:03:53</p> <p>11 THE VIDEOGRAPHER: Back on the record 12 The time is 12:07 p m</p> <p>13 MR. BAUMANN: Mr. Sessa, I don't have any 14 more questions for you and I want to thank you for 15 your time today 12:07:39</p> <p>16 THE WITNESS: Thank you</p> <p>17 MR. STRAUSS: So Mr. Sessa, I do have a 18 couple of questions for you</p> <p>19 I don't need to take a break and I think 20 and when I say a couple, Jack, I actually just mean 12:07:49</p> <p>21 a couple So we won't be here too long but in full 22 disclosure, I am totally struggling to use the 23 Exhibit Share So let me figure this out</p> <p>24 So I want to call Mr. Sessa's attention to 25 Exhibit Number 1, and I can see it in my Exhibit 12:08:13</p> <p style="text-align: right;">Page 129</p>

<p>1 Share but I need to do now a screen share with the 12:08:16</p> <p>2 Exhibit Share.</p> <p>3 MR. BAUMANN: So I could share my screen, 4 whatever is easiest for you, Sam.</p> <p>5 MR. STRAUSS: So Jack, that would be 12:08:25</p> <p>6 incredibly helpful. I will tell you it would be 7 helpful if you could open Exhibit Number 1 and turn 8 to page 9.</p> <p>9 MR. BAUMANN: Of course. Give me one 10 second. 12:08:39</p> <p>11 All right. I think I did the wrong 12 document. Let me share screen there. 13 Now, can you see it?</p> <p>14 MR. STRAUSS: I can see it, yes. 15</p> <p>12:08:57</p> <p>16 EXAMINATION</p> <p>17 BY MR. STRAUSS:</p> <p>18 Q And Mr. Sessa, can you see page number 9? 19 A I see pictures of my brother. 20 Q You know what, I am wrong. My apologies. 12:09:09</p> <p>21 Let me tell Jack the correct page that I 22 want to look at. 23 And you can -- my apologies, Jack, 24 instead, can you guide us to page number 16. 25 A Yes. 12:09:27</p> <p style="text-align: right;">Page 130</p>	<p>1 Q And would you have any trouble 12:10:43</p> <p>2 identifying -- or do you have any trouble 3 identifying that that is a photo of you?</p> <p>4 A No</p> <p>5 MR. BAUMANN: Jack, can we go to the next 12:10:52</p> <p>6 page</p> <p>7 BY MR. BAUMANN:</p> <p>8 Q And who -- Mr. Sessa, can you tell me what 9 is depicted on page number 18</p> <p>10 A That is -- I'm sorry Go ahead 12:11:01</p> <p>11 Q No</p> <p>12 Can you tell who or what is depicted in 13 the image on page number 18</p> <p>14 A I believe that is my senior yearbook 15 picture 12:11:12</p> <p>16 Q And do you have trouble identifying that 17 as your senior yearbook photo?</p> <p>18 A No</p> <p>19 MR. STRAUSS: I have no further questions</p> <p>20 MR. BAUMANN: Great And no follow-ups 12:11:29</p> <p>21 from me</p> <p>22 THE VIDEOGRAPHER: This concludes today's 23 video recorded deposition of Mark Sessa</p> <p>24 We are off the record at 12:11 p m</p> <p>25 The number of media used was seven and 12:11:38</p> <p style="text-align: right;">Page 132</p>
<p>1 Q Mr. Sessa, you can see page number 16? 12:09:32</p> <p>2 A I can.</p> <p>3 Q And can you tell me how many photographs 4 you see on page number 16?</p> <p>5 A Four. 12:09:48</p> <p>6 Q And if we were to count the first 7 photograph on the page as number one and then the 8 second as number two and the third as number three 9 and so on, can you tell me who is depicted in 10 photograph number two and number three. 12:10:03</p> <p>11 A Two and three are me.</p> <p>12 Q And I know as contemplated in the 13 complaint and as you discussed with Mr. Baumann 14 earlier that Plaintiff's counsel had blurred those, 15 but if those images were not blurred, would you have 12:10:20</p> <p>16 any struggle identifying who is depicted in these 17 pictures?</p> <p>18 A Not at all.</p> <p>19 MR. STRAUSS: And Jack, if you could go to 20 page 17, and keep scrolling, if you will, to the 12:10:34</p> <p>21 second half of the page.</p> <p>22 BY MR. STRAUSS:</p> <p>23 Q And Mr. Sessa, do you know who or what is 24 depicted in the image that is on the screen?</p> <p>25 A That picture is of me. 12:10:42</p> <p style="text-align: right;">Page 131</p>	<p>1 will be retained by Veritext. 12:11:41</p> <p>2 Thank you.</p> <p>3 (The deposition was concluded at 4 12:11 p m.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 133</p>

<p>1 DECLARATION</p> <p>2</p> <p>3</p> <p>4</p> <p>5 I, MARK SESSA, do hereby declare that I</p> <p>6 have read the foregoing transcript; that I have made</p> <p>7 any corrections as appear noted, in ink, initialed</p> <p>8 by me, or attached hereto; that my testimony as</p> <p>9 contained herein, as corrected, is true and correct.</p> <p>10 I declare under the penalties of perjury</p> <p>11 under the laws of the State of California that the</p> <p>12 foregoing is true and correct.</p> <p>13 This declaration is executed this _____</p> <p>14 day of _____, 2022, at</p> <p>15 _____, California.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 _____</p> <p>21 MARK SESSA</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 134</p>	<p>1 SAMUEL STRAUSS, ATTORNEY AT LAW</p> <p>2 Sam@TurkeStrauss.com</p> <p>3</p> <p>4 OCTOBER 14, 2022</p> <p>5 RE: SESSA V. ANCESTRY.COM</p> <p>6 OCTOBER 11, 2022, MARK SESSA, JOB NO. 5468893</p> <p>7 The above-referenced transcript has been</p> <p>8 completed by Veritext Legal Solutions and</p> <p>9 review of the transcript is being handled as follows:</p> <p>10 ___ Per CA State Code (CCP 2025.520 (a)-(e)) – Contact Veritext</p> <p>11 to schedule a time to review the original transcript at</p> <p>12 a Veritext office.</p> <p>13 ___ Per CA State Code (CCP 2025.520 (a)-(e)) – Locked .PDF</p> <p>14 Transcript - The witness should review the transcript and</p> <p>15 make any necessary corrections on the errata pages included</p> <p>16 below, notating the page and line number of the corrections.</p> <p>17 The witness should then sign and date the errata and penalty</p> <p>18 of perjury pages and return the completed pages to all</p> <p>19 appearing counsel within the period of time determined at</p> <p>20 the deposition or provided by the Code of Civil Procedure.</p> <p>21 ___ Waiving the CA Code of Civil Procedure per Stipulation of</p> <p>22 Counsel - Original transcript to be released for signature</p> <p>23 as determined at the deposition.</p> <p>24 ___ Signature Waived – Reading & Signature was waived at the</p> <p>25 time of the deposition.</p> <p style="text-align: right;">Page 136</p>
<p>1 STATE OF _____)</p> <p>2) Ss.</p> <p>3 COUNTY OF _____)</p> <p>4</p> <p>5 I, DARYL BAUCUM, a Certified Shorthand</p> <p>6 Reporter of the State of California, do hereby</p> <p>7 certify;</p> <p>8 That the foregoing proceedings were taken</p> <p>9 before me at the time and place herein set forth,</p> <p>10 at which time the witness named in the foregoing</p> <p>11 proceeding was placed under oath; that a record</p> <p>12 of the proceedings was made by me using machine</p> <p>13 shorthand which was thereafter transcribed under my</p> <p>14 direction; and that the foregoing pages contain a</p> <p>15 full, true and accurate record of all proceedings</p> <p>16 and testimony to the best of my skill and ability.</p> <p>17 I further certify that I am neither</p> <p>18 financially interested in the outcome nor a relative</p> <p>19 or employee of any attorney or any party to this</p> <p>20 action.</p> <p>21 IN WITNESS WHEREOF, I have subscribed my</p> <p>22 name this 13th day of October 2022.</p> <p>23</p> <p>24 <%signature%></p> <p>25 DARYL BAUCUM, CSR No. 10356</p> <p style="text-align: right;">Page 135</p>	<p>1 _X_ Federal R&S Requested (FRCP 30(e)(1)(B)) – Locked .PDF</p> <p>2 Transcript - The witness should review the transcript and</p> <p>3 make any necessary corrections on the errata pages included</p> <p>4 below, notating the page and line number of the corrections.</p> <p>5 The witness should then sign and date the errata and penalty</p> <p>6 of perjury pages and return the completed pages to all</p> <p>7 appearing counsel within the period of time determined at</p> <p>8 the deposition or provided by the Federal Rules.</p> <p>9 ___ Federal R&S Not Requested - Reading & Signature was not</p> <p>10 requested before the completion of the deposition.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 137</p>

<div>1 SESSA V. ANCESTRY.COM</div> <div>2 MARK SESSA (#5468893)</div> <div>3 ERRATA SHEET</div> <div>4 PAGE____ LINE____ CHANGE_____</div> <div>5 _____</div> <div>6 REASON_____</div> <div>7 PAGE____ LINE____ CHANGE_____</div> <div>8 _____</div> <div>9 REASON_____</div> <div>10 PAGE____ LINE____ CHANGE_____</div> <div>11 _____</div> <div>12 REASON_____</div> <div>13 PAGE____ LINE____ CHANGE_____</div> <div>14 _____</div> <div>15 REASON_____</div> <div>16 PAGE____ LINE____ CHANGE_____</div> <div>17 _____</div> <div>18 REASON_____</div> <div>19 PAGE____ LINE____ CHANGE_____</div> <div>20 _____</div> <div>21 REASON_____</div> <div>22 _____</div> <div>23 _____</div> <div>24 WITNESS Date</div> <div>25</div> <div>Page 138</div>	

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02292 1:4 2:4 8:23	140 55:7,9 56:8 56:11	2:20 1:4 2:4 8:23	500 4:20
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10 6:6	18 132:9,13	30 137:1	5468893 136:5 138:2
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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

SESSA V. ANCESTRY.COM

MARK SESSA (#5468893)

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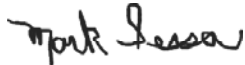
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11 / 23 / 2022

WITNESS

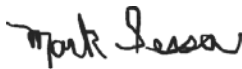
Date

DECLARATION

I, MARK SESSA, do hereby declare that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

I declare under the penalties of perjury under the laws of the State of ~~California~~ Nevada that the foregoing is true and correct.

This declaration is executed this 23 day of November, 2022, at Las Vegas, ~~California~~ Nevada.



MARK SESSA